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No. 30

## House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. REHBERG).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
March 10, 2004.

I hereby appoint the Honorable DENNIS R. REHBERG to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,  
*Speaker of the House of Representatives.*

### PRAYER

The Reverend Dr. William J.P. Doubek III, National Chaplain, The American Legion, Washington, DC, offered the following prayer:

Lord God. Holy Scripture teaches us, "Every good and perfect gift is from above, coming down from the Father of the heavenly lights, who does not change like shifting shadows." The men and women who serve this great Nation in this House are gifts to us from You. We thank You and praise You for their labor on behalf of these United States.

As they study and debate various issues, illuminate them with wisdom from above. When they make decisions that affect our lives, cause them to be ever mindful of the trust we place in them. Use them to glorify You by bringing peace to our troubled planet.

Please bless each branch of our government. Protect them in their travels. Watch over their families and loved ones in their absence. Supply them with time for rest and renewal. Make us all responsible citizens and neighbors.

In Jesus' name, we pray. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. BURNS) come forward and lead the House in the Pledge of Allegiance.

Mr. BURNS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RURAL VETERANS

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to express my support for America's veterans and all military per-

sonnel, especially those veterans who live in rural locations throughout the United States.

The 108th Congress is committed to America's veterans. We are providing record funding for veterans programs, including improvements in our veterans health care system.

These funding measures are allowing the Veterans Administration to open community-based outpatient clinics in many areas of our country. A new community-based outpatient clinic is planned for Athens, Georgia, located in Georgia's 12th District. This clinic will provide many needed medical services to groups of proud veterans in Athens and surrounding areas.

We need to ensure that these outpatient clinics are adequately funded and staffed. We need to encourage the establishment of additional clinics in rural areas where they can be beneficial to our population of veterans.

Mr. Speaker, this Congress is committed to those who currently defend this Nation and to those who have served her in the past.

### OUR TRADE DEFICIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, well, congratulations to the Bush economic team. Yet another record under their belt. Last Friday, it was the announcement that no private sector jobs had been created in America and that they are presiding over the largest job loss since Herbert Hoover in the 1920s, but today, they are touting their record on trade, a new record, a \$43 billion one month trade deficit, and they say this shows the U.S. economy is recovering.

Why? We are running a large and growing trade deficit. This is recovery at the Bush White House, a jobless recovery because they are engaging in trade practices that are exporting the

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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manufacturing base of this country, now the intellectual technology base of this country. They say it is good to outsource jobs, although they are trying to change the word there, that is, U.S. jobs sent overseas are good for American consumers. The problem is Americans need jobs to be able to consume, and under this administration, those jobs are not available here because they are being shipped to China, but this is good news, says the Bush administration.

#### WINNING IN THE WAR ON TERROR

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, America was thrust into war on September 11, 2001, when our Nation was viciously attacked by terrorists who seek to destroy American freedoms. Since that event, the U.S. military has been winning the war on terrorism, guided by the courageous leadership of President George W. Bush.

Recognizing the true threat posed by the global network of terrorism who work closely with outlaw regimes, President Bush laid out a bold and decisive plan. America will not wait for another September 11 to occur before we take action to defend the American people.

In the past 2½ years, our men and women in uniform, backed by dozens of coalition allies, have ended the oppressive terrorist supporting regimes of the Taliban in Afghanistan and Saddam Hussein in Iraq. This protects American families.

Americans can be assured that, thanks to the commitment of President Bush and the valor of American military, that we will continue to win the war on terrorism, despite more attacks worldwide.

In conclusion, may God bless our troops, and we will never forget September 11.

#### ANOTHER RULING FOR MEDICAL PRIVACY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, last year Congress created a zone of privacy that blacks out the transfer of personal medical information. There should be a sign above one's medical information that reads, "Do not enter." It has been a bipartisan effort.

On Monday, a Federal judge interpreted that law to mean that the Justice Department's demands for medical records from university hospitals, like Northwestern University in Chicago, was an undue intrusion on patients' rights.

Federal and State laws already on the books prevent that kind of intrusive breach. Congressional action last

year to black out sharing confidential health records further solidified bipartisan support for medical privacy for all Americans, and I am pleased that in the last 48 hours, the Justice Department has decided to withdraw their subpoena and information request from the hospitals who have stood strong in the face of this intrusion of privacy by the Federal Government.

As William Safire of The New York Times this morning noted, "a balance must be struck between protecting all of us and protecting each one of us."

Mr. Speaker, guaranteeing Americans their medical privacy is a critical first step toward that goal.

#### NORTH KOREA AND CHINA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, on the issue of human rights, today there are between 200- and 300,000 North Korean refugees in China. Half are women, and while the men can find jobs as cheap laborers, most of the women are sold into forced labor or the sex trade.

Despite promises, China so far has refused to grant the North Koreans official refugee status, claiming it would invite a flood of new refugees. That is a faulty argument, and China did not make it when Vietnamese refugees sought refuge in their borders.

Refugee protection does not cause refugee crises. Horrifying human rights abuses, mass starvation, prison camps, brutal torture, forced abortion, and a ruler who believes that he is God causes refugee crises.

It is time for China and the UNHCR to live up to their obligations, and it is time for Kim Jong Il to stop brutalizing his people and to step aside.

#### PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT OF 2003

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in opposition to H.R. 339, the Personal Responsibility in Food Consumption Act of 2003.

According to a report released yesterday by the CDC, poor diet and a lack of physical activity are among the leading causes of death in the United States. In fact, obesity is fast approaching to be the number one cause of death in our country. Unless our families become healthier, the CDC estimates that one in three children, or in the Hispanic community, one in two children, will become diabetic.

This year, California State University at Fullerton is proposing a Center for the Prevention of Childhood Obesity, which would work with schools and other organizations to arm teachers and parents with the tools that they need to prevent obesity in their children.

It is also heartening to see some food companies such as McDonald's and Kellogg making positive changes in the way that they produce food, and I would argue that these changes are due in large part to some of those lawsuits brought against certain food companies regarding nutritional value, content information, or long-term consequences of eating high fatty foods.

#### REMEMBERING THE LIFE OF LILLIAN R. BARCIO

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise to remember the life of the devoted wife, courageous mother, publisher and journalist Lillian Rose Barcio.

Lillian Barcio died February 29, 2004, in Indianapolis where she was born in July of 1931. She is survived by her loving husband of 31 years, Bernard; her daughters, Marsha Louzon, Sheryl Donnell, Karen Pence, Cyndi Barcio; and her son, Phillip Barcio. In addition, she is survived by eight grandchildren and two great-grandchildren.

Through many hardships, Lillian Barcio kept her faith in Christ and her humor and optimism about life. The Bible says that charm is deceptive and beauty is fleeting but the woman who fears the Lord is to be praised.

Lillian Barcio, my mother-in-law, was such a woman whose life would merit remembrance in this Congress even if she had not raised the most wonderful woman I have ever known. May God rest the soul of Lillian Barcio and bring rest and comfort to her loving husband Bernie and all those who mourn her passing.

#### THE ECONOMY

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, good morning. I rise this morning to talk about the economy. President Bush keeps telling us the economy is turning the corner and that jobs are coming. Well, Mr. President, where are the jobs you keep promising?

Last Friday brought more disappointing news to our country. Twenty-one thousand new jobs were created last month. That is 285,000 fewer jobs than President Bush promised his tax cut would provide. The unemployment rate among Latinos rose by 7.4 percent last month, 28 percent higher than when President Bush took office.

Twenty thousand plus people in my District alone, 8 million nationwide, are out of work. These people are looking for jobs.

This coming weekend we are helping to sponsor a job fair at the Los Angeles Dodgers stadium. Hundreds of out-of-work southern Californians are eager to return to work. They, too, want to know where the jobs are.

The Bush policies have failed. It is time to take a different approach. Let us provide tax incentives for companies to keep jobs in the U.S. and pass the highway bill and create well-paid and meaningful jobs here in the U.S.

#### THE ADMINISTRATION'S NEW MATH

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I would like to ask everybody in the House to get a pencil and paper and take down this number. We are getting close to tax time. Ready. Here it is. One, one, two, nine, two, five. That number again one, one, two, nine, two, five.

Now, here is another number, six, seven, six. These are not phone numbers, but six, seven, six ought to be a call for help.

The first number, \$112,925, that is the average tax cut that millionaires will see in their 2003 return. The second number is \$676. That is the average tax cut for the average American.

This is the administration's new math, obscene tax cuts for the wealthy, crumbs for the average American. This administration did not create a single job in the last month in the private sector. That is not recovery. Where are the unemployment benefits, Mr. Speaker?

#### THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on approving the Journal will be followed by 5-minute votes on the two motions to suspend the rules postponed yesterday.

The vote was taken by electronic device, and there were—yeas 353, nays 41, answered “present” 1, not voting 38, as follows:

[Roll No. 45]  
YEAS—353

Abercrombie	Andrews	Ballenger
Ackerman	Baca	Barrett (SC)
Akin	Bachus	Bartlett (MD)
Alexander	Baker	Bass
Allen	Ballance	Beauprez

Becerra	Frank (MA)	McInnis
Bereuter	Franks (AZ)	McIntyre
Berkley	Frelinghuysen	McKeon
Berman	Frost	Meehan
Berry	Galleghy	Meek (FL)
Biggert	Garrett (NJ)	Meeks (NY)
Bilirakis	Gerlach	Menendez
Bishop (GA)	Gibbons	Mica
Bishop (NY)	Gilchrest	Michaud
Bishop (UT)	Gingrey	Millender-
Blumenauer	Goode	McDonald
Blunt	Goodlatte	Miller (MI)
Boehlert	Gordon	Miller (NC)
Boehner	Goss	Miller, Gary
Bonilla	Green (WI)	Mollohan
Bonner	Grijalva	Moore
Bono	Gutierrez	Murphy
Boozman	Gutknecht	Murtha
Boswell	Harman	Musgrave
Boucher	Harris	Myrick
Boyd	Hart	Nadler
Bradley (NH)	Hastings (FL)	Napolitano
Brady (TX)	Hastings (WA)	Neal (MA)
Brown (OH)	Hayes	Nethercutt
Brown (SC)	Hayworth	Neugebauer
Brown, Corrine	Hensarling	Ney
Brown-Waite,	Herger	Northup
Ginny	Hill	Norwood
Burgess	Hobson	Nunes
Burns	Hoeffel	Nussle
Burr	Hoekstra	Obey
Burton (IN)	Holden	Osborne
Buyer	Honda	Ose
Calvert	Hooley (OR)	Oxley
Camp	Hostettler	Pallone
Cannon	Houghton	Pascarell
Cantor	Hoyer	Pastor
Capito	Hunter	Paul
Capps	Hyde	Payne
Cardin	Inslee	Pearce
Cardoza	Isakson	Pelosi
Carson (IN)	Israel	Pence
Carson (OK)	Issa	Peterson (PA)
Case	Istook	Petri
Castle	Jackson (IL)	Pickering
Chabot	Jefferson	Pitts
Chandler	Jenkins	Platts
Chocola	John	Pombo
Clyburn	Johnson (CT)	Pomeroy
Coble	Johnson (IL)	Porter
Cole	Johnson, E. B.	Portman
Collins	Jones (NC)	Price (NC)
Conyers	Jones (OH)	Pryce (OH)
Cooper	Kanjorski	Putnam
Cramer	Kaptur	Quinn
Crenshaw	Keller	Radanovich
Crowley	Kelly	Rahall
Cubin	Kennedy (MN)	Rangel
Culberson	Kildee	Regula
Cunningham	Kilpatrick	Rehberg
Davis (AL)	Kind	Renzi
Davis (CA)	King (IA)	Reynolds
Davis (FL)	King (NY)	Rogers (AL)
Davis (TN)	Kingston	Rogers (KY)
Davis, Jo Ann	Kirk	Rogers (MI)
Davis, Tom	Klecza	Rohrabacher
Deal (GA)	Kline	Ros-Lehtinen
DeGette	Knollenberg	Ross
Delahunt	Kolbe	Rothman
DeLauro	LaHood	Roybal-Allard
DeLay	Lampson	Royce
DeMint	Langevin	Ruppersberger
Deutsch	Lantos	Rush
Diaz-Balart, L.	Larson (CT)	Ryan (OH)
Dicks	Leach	Ryan (WI)
Dingell	Lee	Ryun (KS)
Dooley (CA)	Levin	Sanchez, Linda
Doolittle	Lewis (CA)	T.
Doyle	Lewis (KY)	Sanchez, Loretta
Dreier	Linder	Sanders
Duncan	Lipinski	Sandlin
Dunn	Lowey	Saxton
Edwards	Lucas (KY)	Schrock
Ehlers	Lucas (OK)	Scott (GA)
Emanuel	Lynch	Scott (VA)
Emerson	Majette	Sensenbrenner
Engel	Maloney	Serrano
Eshoo	Manzullo	Sessions
Etheridge	Markey	Shadeegg
Evans	Marshall	Shaw
Everett	Matheson	Shays
Farr	Matsui	Sherman
Fattah	McCarthy (MO)	Sherwood
Feeney	McCarthy (NY)	Shimkus
Ferguson	McCollum	Shuster
Flake	McCotter	Simmons
Foley	McCrery	Simpson
Forbes	McGovern	Skelton
Ford	McHugh	Slaughter

Smith (MI)	Thornberry
Smith (NJ)	Tiahrt
Smith (TX)	Tiberi
Smith (WA)	Tierney
Snyder	Towns
Solis	Turner (OH)
Souder	Turner (TX)
Stark	Upton
Stearns	Van Hollen
Stenholm	Vitter
Sullivan	Walden (OR)
Tanner	Walsh
Taylor (NC)	Wamp
Terry	Watson
Thomas	Watt

Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

#### NAYS—41

Aderholt	Hulshof	Sabo
Baird	Larsen (WA)	Schakowsky
Baldwin	Latham	Strickland
Brady (PA)	Lewis (GA)	Stupak
Capuano	LoBiondo	Tauscher
Costello	McDermott	Taylor (MS)
DeFazio	McNulty	Thompson (CA)
English	Miller, George	Thompson (MS)
Filner	Moran (KS)	Udall (NM)
Gillmor	Oberstar	Valdez
Graves	Olver	Visclosky
Green (TX)	Otter	Waters
Hefley	Peterson (MN)	Weller
Holt	Ramstad	

#### ANSWERED “PRESENT”—1

Tancredo

#### NOT VOTING—38

Barton (TX)	Gonzalez	Miller (FL)
Bell	Granger	Moran (VA)
Blackburn	Greenwood	Ortiz
Carter	Hall	Owens
Clay	Hinchey	Reyes
Cox	Hinojosa	Rodriguez
Crane	Jackson-Lee	Schiff
Cummings	(TX)	Spratt
Davis (IL)	Johnson, Sam	Sweeney
Diaz-Balart, M.	Kennedy (RI)	Tauzin
Doggett	Kucinich	Toomey
Fossella	LaTourette	Udall (CO)
Gephardt	Lofgren	Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1040

So the Journal was approved.

The result of the vote was announced as above recorded.

#### MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1881, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GREENWOOD) that the House suspend the rules and pass the Senate bill, S. 1881, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 37, as follows:

[Roll No. 46]  
YEAS—396

Abercrombie	Andrews	Ballance
Ackerman	Baca	Ballenger
Aderholt	Bachus	Barrett (SC)
Akin	Baird	Bartlett (MD)
Alexander	Baker	Bass
Allen	Baldwin	Beauprez

Becerra  
Bereuter  
Berkley  
Berman  
Berry  
Biggert  
Billakis  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonner  
Bono  
Boozman  
Boswell  
Boucher  
Boyd  
Bradley (NH)  
Brady (PA)  
Brady (TX)  
Brown (OH)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Burgess  
Burns  
Burr  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Capps  
Capuano  
Cardin  
Cardoza  
Carson (IN)  
Carson (OK)  
Case  
Castle  
Chabot  
Chandler  
Chocola  
Clyburn  
Coble  
Cole  
Collins  
Conyers  
Cooper  
Costello  
Cramer  
Crenshaw  
Crowley  
Cubin  
Culberson  
Cunningham  
Davis (AL)  
Davis (CA)  
Davis (FL)  
Davis (TN)  
Davis, Jo Ann  
Davis, Tom  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
DeLay  
DeMint  
Deutsch  
Diaz-Balart, L.  
Dicks  
Dingell  
Dooley (CA)  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Emanuel  
Emerson  
Engel  
English  
Eshoo  
Etheridge  
Evans  
Everett  
Farr  
Fattah  
Feeney

Ferguson  
Filner  
Flake  
Foley  
Forbes  
Ford  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Frost  
Gallegly  
Garrett (NJ)  
Gerlach  
Gibbons  
Gilchrist  
Gillmor  
Gingrey  
Goode  
Goodlatte  
Gordon  
Goss  
Graves  
Green (TX)  
Green (WI)  
Grijalva  
Gutierrez  
Gutknecht  
Harman  
Harris  
Hart  
Hastings (FL)  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hensarling  
Herger  
Hill  
Hobson  
Hoeffel  
Hoekstra  
Holden  
Holt  
Honda  
Hooley (OR)  
Hostettler  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hyde  
Inslee  
Isakson  
Israel  
Issa  
Istook  
Jackson (IL)  
Jefferson  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, E. B.  
Jones (NC)  
Jones (OH)  
Kanjorski  
Kaptur  
Keller  
Kelly  
Kennedy (MN)  
Kildee  
Kilpatrick  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kleczka  
Kline  
Knollenberg  
Kolbe  
LaHood  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Latham  
Leach  
Lee  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lowey  
Lucas (KY)

Lucas (OK)  
Lynch  
Majette  
Maloney  
Manzullo  
Markley  
Marshall  
Matheson  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McCotter  
McCrery  
McDermott  
McGovern  
McHugh  
McInnis  
McIntyre  
McKeon  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Mica  
Michaud  
Millender-  
McDonald  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Mollohan  
Moore  
Moran (KS)  
Murphy  
Murtha  
Musgrave  
Myrick  
Nadler  
Napolitano  
Neal (MA)  
Nethercutt  
Neugebauer  
Ney  
Northup  
Norwood  
Nunes  
Nussle  
Oberstar  
Obey  
Olver  
Osborne  
Ose  
Otter  
Oxley  
Pallone  
Pascrell  
Pastor  
Paul  
Payne  
Pearce  
Pelosi  
Pence  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Platts  
Pombo  
Pomeroy  
Porter  
Portman  
Price (NC)  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Rahall  
Ramstad  
Rangel  
Regula  
Rehberg  
Renzi  
Reynolds  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Ross  
Rothman  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)

Ryan (WI)  
Ryun (KS)  
Sabo  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Saxton  
Schakowsky  
Schrock  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Shays  
Sherman  
Sherwood  
Shimkus  
Shuster  
Simmons  
Simpson  
Skelton  
Slughter  
Smith (MI)

Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Solis  
Souder  
Spratt  
Stark  
Stearns  
Stenholm  
Strickland  
Stupak  
Sullivan  
Tancredo  
Tanner  
Tauscher  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tiberti  
Tierney  
Towns  
Turner (OH)

Turner (TX)  
Udall (NM)  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Vitter  
Walden (OR)  
Walsh  
Wamp  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Weldon (FL)  
Weldon (PA)  
Weller  
Wexler  
Whitfield  
Wilson (NM)  
Wilson (SC)  
Wolf  
Woolsey  
Wu  
Wynn  
Young (AK)  
Young (FL)

## NOT VOTING—37

Barton (TX)  
Bell  
Bishop (GA)  
Carter  
Clay  
Cox  
Crane  
Cummings  
Davis (IL)  
Diaz-Balart, M.  
Doggett  
Fossella  
Gephardt

Gonzalez  
Granger  
Greenwood  
Hall  
Hinche  
Hinojosa  
Jackson-Lee  
(TX)  
Johnson, Sam  
Kennedy (RI)  
Kucinich  
LaTourette  
Loftgren

Miller (FL)  
Moran (VA)  
Ortiz  
Owens  
Reyes  
Rodriguez  
Schiff  
Sweeney  
Tauzin  
Toomey  
Udall (CO)  
Wicker

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1049

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# EXPRESSING SENSE OF CONGRESS THAT KIDS LOVE A MYSTERY IS A PROGRAM THAT PROMOTES LITERACY AND SHOULD BE ENCOURAGED

The SPEAKER pro tempore (Mr. REHBERG). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 373.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINGREY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 373, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 388, nays 11, answered “present” 1, not voting 33, as follows:

[Roll No. 47]

## YEAS—388

Abercrombie  
Aderholt  
Akin  
Alexander  
Allen  
Andrews  
Baca  
Bachus  
Baird  
Baker  
Baldwin  
Ballance  
Ballenger  
Barrett (SC)  
Bartlett (MD)  
Bass  
Beauprez  
Becerra  
Bereuter  
Berkley  
Berman  
Berry  
Biggert  
Billakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonner  
Bono  
Boozman  
Boswell  
Boucher  
Boyd  
Bradley (NH)  
Brady (PA)  
Brady (TX)  
Brown (OH)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Burns  
Burr  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Capps  
Capuano  
Cardin  
Cardoza  
Carson (IN)  
Carson (OK)  
Case  
Castle  
Chabot  
Chandler  
Chocola  
Clyburn  
Coble  
Cole  
Collins  
Conyers  
Cooper  
Costello  
Cramer  
Crenshaw  
Crowley  
Cubin  
Culberson  
Cunningham  
Davis (AL)  
Davis (CA)  
Davis (FL)  
Davis (TN)  
Davis, Jo Ann  
Davis, Tom  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
DeLay  
DeMint  
Deutsch  
Diaz-Balart, L.  
Dicks  
Dingell  
Dooley (CA)  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Emanuel  
Emerson  
Engel  
English  
Eshoo  
Etheridge  
Evans  
Everett  
Farr  
Fattah  
Feeney

Dingell  
Dooley (CA)  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Emanuel  
Emerson  
Engel  
English  
Eshoo  
Etheridge  
Evans  
Everett  
Farr  
Fattah  
Feeney

Kolbe  
LaHood  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Latham  
Leach  
Lee  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lowey  
Lucas (KY)

McCarthy (MO)  
McCarthy (NY)  
McCollum  
McCotter  
McCrery  
McDermott  
McGovern  
McHugh  
McInnis  
McIntyre  
McKeon  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Mica  
Michaud  
Millender-  
McDonald  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Mollohan  
Moore  
Moran (KS)  
Murphy  
Murtha  
Musgrave  
Myrick  
Nadler  
Napolitano  
Neal (MA)  
Nethercutt  
Neugebauer  
Ney  
Northup  
Norwood  
Nunes  
Nussle  
Oberstar  
Obey  
Olver  
Osborne  
Ose  
Otter  
Oxley  
Pallone  
Pascrell  
Pastor  
Paul  
Payne  
Pearce  
Pelosi  
Pence  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Platts  
Pombo  
Pomeroy  
Porter  
Portman  
Price (NC)  
Pryce (OH)  
Putnam

Quinn	Sessions	Tiahrt
Radanovich	Shadegg	Tiberi
Rahall	Shaw	Tierney
Ramstad	Shays	Towns
Rangel	Sherman	Turner (OH)
Regula	Sherwood	Turner (TX)
Rehberg	Shimkus	Udall (NM)
Renzi	Shuster	Upton
Reynolds	Simmons	Van Hollen
Rogers (AL)	Simpson	Velázquez
Rogers (KY)	Skelton	Visclosky
Rogers (MI)	Slaughter	Vitter
Rohrabacher	Smith (MI)	Walden (OR)
Ros-Lehtinen	Smith (NJ)	Walsh
Ross	Smith (TX)	Wamp
Rothman	Smith (WA)	Waters
Roybal-Allard	Snyder	Watson
Ruppersberger	Solis	Watt
Rush	Spratt	Waxman
Ryan (OH)	Stark	Weiner
Ryan (WI)	Stearns	Weldon (FL)
Ryun (KS)	Stenholm	Weldon (PA)
Sabo	Strickland	Weller
Sánchez, Linda	Stupak	Wexler
T.	Sullivan	Whitfield
Sanchez, Loretta	Sweeney	Wilson (NM)
Sanders	Tanner	Wilson (SC)
Sandlin	Tauscher	Wolf
Saxton	Taylor (MS)	Woolsey
Schakowsky	Taylor (NC)	Wu
Schrock	Terry	Wynn
Scott (GA)	Thomas	Young (AK)
Scott (VA)	Thompson (CA)	Young (FL)
Sensenbrenner	Thompson (MS)	
Serrano	Thornberry	

## NAYS—11

Burgess	Goode	Paul
Collins	Hefley	Royce
Everett	Jones (NC)	Tancred
Flake	Kingston	

## ANSWERED "PRESENT"—1

Souder

## NOT VOTING—33

Ackerman	Granger	Moran (VA)
Barton (TX)	Hall	Ortiz
Bell	Hinchey	Owens
Carter	Hinojosa	Reyes
Clay	Jackson-Lee	Rodriguez
Cox	(TX)	Schiff
Crane	Johnson, Sam	Tauzin
Cummings	Kennedy (RI)	Toomey
Davis (IL)	Kucinich	Udall (CO)
Doggett	LaTourette	Wicker
Gephardt	Lofgren	
Gonzalez	Miller (FL)	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1059

Mr. HEFLEY and Mr. ROYCE changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, due to official business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall Vote No. 42 "yea"; rollcall Vote No. 43 "yea"; rollcall Vote No. 44 "yea"; rollcall Vote No. 45 "yea"; rollcall Vote No. 46 "yea"; and rollcall Vote No. 47 "yea."

## PERSONAL EXPLANATION

Mr. CARTER. Mr. Speaker, during rollcall Vote Nos. 42, 43, 44, 45, 46 and 47 I was unavoidably detained. If I had been present, I would have voted "yea."

## PROVIDING FOR CONSIDERATION OF H.R. 339, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 552

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume.

□ 1100

During consideration of this resolution, all time is yielded for the purposes of debate only.

Mr. Speaker, the resolution before us is a fair and open rule that allowed every single Member of this body to offer any amendment that they wished to debate after simply having it preprinted in the CONGRESSIONAL RECORD. On March 4, the Committee on Rules publicly notified Members of the

possibility that it may report a rule to give every Member of Congress an opportunity to have their amendment heard on the House Floor, giving Members ample time to draft and submit their amendments for consideration.

The rule also provides one hour of general debate, equally divided and controlled by the chairman and ranking member of the Committee on the Judiciary, and allows the amendment in the nature of a substitute to be considered an original bill for the purpose of amendment, and that it shall be considered as read.

The rule waives all points of order against the committee amendment in the nature of a substitute and provides that only the authoring Member or a designee may offer a preprinted amendment. Finally, the rule provides the minority with one motion to recommit either with or without instructions.

Mr. Speaker, I rise today to introduce the rule for H.R. 339, the Personal Responsibility and Food Consumption Act. This bill is common sense legislation that requires courts to dismiss frivolous lawsuits seeking damages for injuries resulting from obesity and its attendant health problems that are filed against the manufacturers, distributors, sellers, marketers, and advertisers of any food product by a claimant or their spouse, parent, or child. That is, simply put, what this bill does, and I would like to congratulate our chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the bill's sponsor, the gentleman from Florida (Mr. KELLER) for their hard work in bringing this legislation to the floor for its consideration today.

Despite its opponents' claims to the contrary, what this bill does not do is to relieve manufacturers of their existing Federal and State responsibilities for manufacturing, marketing, distributing, advertising, labeling, or selling their products, nor does it affect existing State laws against deceptive trade practices or lawsuits filed for the relief of claimants who become sick from tainted food products. This bill is a carefully crafted bill to address a specific problem: to put an end to frivolous lawsuits that have been filed against the lawful and productive food services industry, an industry that provides 12 million Americans with jobs and is the Nation's largest private sector employer. And, it accomplishes this while protecting all of the other rights currently given to consumers.

This bill simply codifies the current tort law of every State in America that already has preventive injury claims based on obesity and makes permanent what a recent Gallup poll has shown that 89 percent of Americans already knew: that lawsuits against the food industry are an attempt by the trial bar to make an end-run around our Nation's established democratic process through litigation. H.R. 339 creates a narrow, national solution to the problem of these costly and wasteful lawsuits, and establishes in Federal law

the simple concept that consumers, not the plaintiffs' bar or a government agency, shall have the right to choose what they eat.

Every Member of this Chamber understands that obesity and the greater health problems that it causes, such as heart disease and diabetes, is a dangerous and growing problem to America. Over the last 20 years, obesity rates have increased by more than 60 percent among adults, and the rate of increase in obesity among young people has risen even more rapidly. To address this problem, President Bush has demonstrated his leadership by providing funds in his budget for general health promotion activities, including efforts to educate the public on preventing diabetes and obesity. President Bush has also outlined a fitness challenge to all Americans by asking adults all across America to get at least 30 minutes of physical activity each day, for children and teenagers to get at least 60 minutes of physical activity each day, and for parents to commit to family activities that revolve around physical activity.

But the American people understand that fitness, health, and well-being is not something that can be legislated, nor something that lawyers can sue for. A commitment to a healthy lifestyle is something that everyone must make for themselves, and it is a matter of personal responsibility. People all across this country understand that since 2002, trial lawyers have been sizing up the deep pockets of the food industry and are ready to pounce upon them when they see a golden opportunity to reap billions of dollars for themselves by filing these lawsuits against the productive food industry.

John Bahnzafl, one of the lead litigators of these frivolous suits, has publicly announced that his goal is to "open the floodgates" of the litigation against the food industry because, he says, "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open up the floodgates." All it will take to do irreparable harm to consumers, the economy, and millions of jobs is just one judge making a nonsense opinion by falling victim to what the trial lawyers wish to do. I believe it is Congress's obligation to allow commerce to proceed by preventing these suits from wasting the time of our courts and the resources of a lawful industry.

By passing this legislation today, the House will tell consumers, investors, and countless employees of local Mom and Pop burger joints all across America that we care about them and their jobs, and that we will make sure that we will protect them. We will be telling Americans we think that they are smart enough to decide what they choose to put in their own mouth, and we will be helping those everyday working Americans who rely on fast, affordable nutrition in their hectic lives, not by allowing the courts to in-

crease the price of food that they freely choose to eat.

If the House fails to pass this legislation, where will the madness end? Will sit-down restaurants, which some studies have shown often, serve food with a nutritional and caloric content similar to fast food? Will they be next on the trial lawyers' hit list? Will trial lawyers target chicken producers who supply countless moms across America with the raw materials for homemade fried chicken, or the beef producers who conspire to provide them with raw ingredients for fattening homemade meatloaf? Or will they simply wait for the next fad diet trend to come along and go after whoever is producing the unfashionable food of the moment?

Mr. Speaker, there is a cure to the obesity problem in America. By taking the road to reducing the medical costs associated with obesity is the right way to do it, not in the courtroom. It begins when Americans decide to leave a little bit on their dinner plate and to run that extra mile. It begins when a parent decides to take an active role in their child's life and coaches their son or their daughter's Little League team. It begins the next time you or I step up to the counter and order the salad, not the extra cheese pizza. But that should be our choice as Americans, because we know best that we make better decisions than the government or than trial lawyers can make for us. These are decisions that Americans can and should make for themselves. Unlike the opponents of this bill, I trust the American people and believe that Americans are smart enough to make these decisions for themselves.

Mr. Speaker, I support this rule, and I support the well-crafted underlying bill of the gentleman from Florida (Mr. KELLER).

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself 8 minutes.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, despite the rhetoric coming from the other side, this is not an open rule. This rule requires that any Member who wants to improve this bill must have already preprinted their amendment in yesterday's CONGRESSIONAL RECORD. Now, it is interesting to note that when they were in the minority, the Republicans condemned preprinting requirements, but now that they are in power, they find this and other procedures to close the process completely acceptable. In fact, even the very distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER) agrees that preprinting requirements are wrong, or at least he used to.

On July 20, 1993, the very distinguished chairman of the Committee on

Rules said this about a Democratic rule requiring that all amendments be preprinted: "This rule also requires amendments to be printed in the CONGRESSIONAL RECORD. Now, that might not sound like much, but it is another bad policy that belittles the traditions of House debate. If amendments must be preprinted, then it is impossible to listen to the debate on the floor, come up with a new idea to improve the bill, and then offer an amendment to incorporate that idea. Why do we need this burdensome preprinting process? Shouldn't the committees that report these bills have a grasp of the issues affecting the legislation under their jurisdiction? Again, Mr. Speaker, I think we can do better."

Well, I agree completely with my friend from California. We can do better. Unfortunately, in this Congress, we are actually doing worse. This year, of the nine rules this body considered, only one has been a truly open rule. That is a batting average of 111, which will get you kicked off of my son's T-ball team. According to the Republicans' own definition, eight out of nine rules have been restrictive, and that one open rule brought a bill to the floor that was approved by a voice vote.

Now, Mr. Speaker, as for the underlying bill, this is an unnecessary distraction from the real problems facing the American people. In August 2002, two children brought suit against McDonald's, claiming the corporation bore legal responsibility for their obesity and health problems. The case got a great deal of media attention which is, I am sure, part of why we are doing this thing today. The judge working on the case quickly recognized that this lawsuit was clearly frivolous and dismissed the case.

In other words, Mr. Speaker, the system worked. But that is not good enough for the Republicans. Now they want to radically change the rules, not just so Americans cannot bring forth so-called frivolous lawsuits, but so that almost any case of negligence against these types of companies is banned. This bill is retroactive: any case currently pending before a judge would be subject to the new law. Mr. Speaker, you do not change the rules during the middle of the game, but that is just what this bill does.

This bill has many, many, many problems, and my colleagues on the Committee on the Judiciary will talk more about the merits or lack of merits of the bill during general debate. But there are bigger issues here.

Mr. Speaker, obesity is a problem, and this week we learned that obesity will soon pass smoking as the leading cause of preventable deaths. Americans, especially children, are gaining weight at alarming rates. In fact, according to the National Alliance for Nutrition and Activity, obesity is the Nation's fastest rising public health problem. According to the Department of Health and Human Services,

unhealthy eating and inactivity cause about 1,200 deaths every day. That is five times more than the number of people killed by guns, HIV, and drug use combined.

Now, adding to this is the fact that it just does not affect the obese person; it puts a burden on the entire system, from hospitals to the workplace to the home. And, according to the U.S. Department of Agriculture, healthier diets could prevent at least \$71 billion per year in medical costs, lost productivity, and lost lives. The Centers for Disease Control estimates that if all physically inactive Americans became active, we would save \$77 billion in annual medical costs. And this does not even begin to discuss the issue of hunger in America.

Unfortunately, there are many people in this country who suffer from hunger and yet, paradoxically, are obese because the little food they do get is not nutritious. Low-income families face a real need to stretch their food dollars to maximize the number of calories they consume. We are finding that low-income families may eat foods that may cost less, but that have relatively higher levels of calories per dollar to stave off hunger when they lack the money or other resources like food stamps to purchase a healthier balance of more nutritious foods. Simply put, it becomes a trade-off between food quantity and food quality.

Now, it is obvious to everyone, everyone but the House Republican leadership, apparently, that obesity and hunger are serious public health issues that need to be dealt with in serious ways.

□ 1115

But instead of bringing legislation before this body that will help feed the hungry, provide families with information on how to prepare and eat nutritious meals, encourage the food and restaurant industry to be more responsible and help raise the standard of living, we are here today considering a fake bill that pretends to fix a fake problem.

Now, I would like to tell the American public that we are actually having a real substantive debate about obesity in ways to address this national problem but we are not. And although today's bill would undoubtedly restrict lawsuits against restaurants, food manufacturers, and food distributors, what it really does is highlight the priorities, actually the lack of priorities, of this Republican-controlled Congress.

For example, over 760,000 Americans sit at home, jobless and without any income because the Republicans in Congress will not extend them unemployment benefits. But the majority party all of a sudden can find the time to take up this legislation.

While the European Union adds tariffs to American goods because of a trade dispute, the Republican majority continues to let a bipartisan compromise sit and gather dust; but the

leadership can find the time to try to ram another partisan corporate tax cut through the House that will not address any real problem.

And while over 40 million Americans woke up this morning without health insurance, last week the majority took precious time out of their limited legislative schedule to set the rules for commercial space flight, which does not even exist yet.

With all the challenges facing this country, and with the limited schedule set by the Republicans this year, is this the best bill to consider? Is this the best use of the House's time? The answer is no. And, unfortunately, the Republican Party continues to ignore the real issues facing this country.

And it just goes to show you how misguided and out of touch the majority party continues to be.

Mr. Speaker, the United States House of Representatives is supposed to be a serious place. This is where the great issues are supposed to be debated. But under this Republican leadership, this House has become a place where trivial issues are debated passionately and serious ones not at all.

We should have a debate about the problem of obesity. And that debate should include serious discussions about the ways we can effectively deal with that issue. But that is not what we are doing here today. What we are doing here today, quite frankly, is, once again, concocting a way to avoid doing the people's business.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, a good number of Members of Congress spend a lot of time trying to promote health and fitness and worthiness, and one of those Members is with us today. He is the chairman of the Committee on Rules, from San Dimas, California.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, let me just say in responding to my friend from Massachusetts that this is clearly an open rule in the modern House that we have today. We are criticized over the fact that we have not been able to move things; and then, Mr. Speaker, when we proceed with moving legislation forward, we do it under a procedure that does allow every single Member, every single Member who wants to offer a germane amendment the right to do that. That is exactly what this rule does.

Mr. MCGOVERN. Mr. Speaker, would the gentleman yield for a question?

Mr. DREIER. Mr. Speaker, no. The gentlemen spoke for a nice long period of time. When I get done with my statement, I look forward to engaging with the gentleman. I never hesitate to do that.

Let me say that, Mr. Speaker, I have to ask somewhat rhetorically, Was

there a power surge last night or was it a full Moon? Someone has awakened the Franken-Food Monster. The amendments that have been filed last night appear to be nothing more than an all-out embrace of Ralph Naderism. Who has been in the sauce too much? Or maybe they need a little Hamburger Helper.

Last night I thought that the minority was very serious when they said to us that they wanted to have an open amendment process for unlimited debate on this bill. I thought we were going to have a serious debate, a debate on how to stop the economically debilitating effect of frivolous lawsuits concerning obesity. But the amendments that were filed last night are making a mockery of what is a serious issue.

Americans, Mr. Speaker, are eating themselves to death and looking for someone to blame. Obesity and weight control are very serious subjects, very, very serious subjects. I am reminded regularly by Arnold Schwarzenegger about that. And, of course, we have the great model of President Bush, who is probably the fittest President we have ever had. They talk about the fact that there are many factors to weight control and food consumption and health. And, obviously, fitness is numero uno, very, very important.

Suing Burger King is not going to improve anyone's health. Personal responsibility and accountability are what are most important. We cannot have a serious debate, Mr. Speaker, on real issues, one about those who can use the court system for political purposes on whether it is right or wrong to force concessions or financial gain through legal harassment. We are clogging the judicial system with frivolous lawsuits, we are hurting business, we are putting American jobs in jeopardy, and at the same time we are clogging our arteries without considering the consequences. These are real issues that affect Americans' everyday lives.

So I have to ask, Why are these frivolous amendments being filed by the minority? The majority is trying to govern and get the people's business done. And I must ask the minority why is there this fraudulent frolic of frivolous fluff. Is it intended to highlight frivolous lawsuits, or is it merely intended to change the subject?

Let us get the people's work done, unburden businesses so they can create more jobs, and stop this bumper-sticker gamesmanship. I believe that we should withdraw the silliness and we should see those amendments, if they are offered, resoundingly defeated.

Mr. MCGOVERN. Mr. Speaker, I thought the gentleman from California was going to yield to me.

Mr. DREIER. Mr. Speaker, I would be happy to yield to the gentleman from Massachusetts (Mr. MCGOVERN) if he would like to pose a question to me.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me ask the question to the gentleman from California (Mr.

DREIER) that I wanted to ask, which was he says this is an open rule, but if a Member is watching this debate right now, either a Democrat or Republican, and comes up with a great idea for an amendment, will that Member be allowed to offer his or her amendment on the floor right now? It is a simple yes or no answer.

Mr. DREIER. Mr. Speaker, the answer is no, not at this moment. Let me say, if the gentleman would continue to yield, let me say that any Member had the opportunity last night to file an amendment.

Mr. MCGOVERN. Mr. Speaker, I reclaim my time.

I also point out again the gentleman (Mr. DREIER) talks about the openness of the Committee on Rules, but let me use his definitions, the definitions of the Republicans when they were in the minority. Under those definitions, this year of the nine rules we have had, one has been open, one has been closed, one was procedural, and there were six restrictive rules. This is hardly any kind of an example.

Mr. DREIER. Mr. Speaker, would the gentleman yield for a question?

Mr. MCGOVERN. Mr. Speaker, I will not. Mr. Speaker, I control the time.

The SPEAKER pro tempore (Mr. REHBERG). The gentlemen reclaim his time.

Mr. MCGOVERN. Mr. Speaker, I will extend the same courtesy to the gentleman that he extended to me.

Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO), who has been a champion on the issue of nutrition issues.

Ms. DELAURO. Mr. Speaker, only with this Republican leadership would an effort to promote personal responsibility begin with allowing companies to be irresponsible without accountability. Unless the public be confused that the Republicans are actually concerned with doing something about the obesity epidemic in this country that we have heard so much about, this legislation has little to do with preventing what the Centers for Disease Control yesterday said will be this Nation's leading cause of preventable deaths by next year.

Rather, by shielding manufacturers, distributors, and food sellers from liability, this bill is the next installment in the majority's series of tort reform bills in disguise, attempting to give yet another industry open-ended protection so irresponsible conduct is not punished or held accountable.

But that should not distract us from discussing the very real problem of obesity in this country. Obesity affects nearly 65 percent of adults. The rates are rising. The problem is even more pressing for teens, teenage obesity rates tripling in the last 20 years. All told, obesity costs the Nation \$117 billion a year in health care and related costs, the single largest drain on our Nation's health care system.

Obesity leads to diabetes, high blood pressure, coronary heart disease,

stroke and arthritis, conditions the CDC says will kill a half million people every year by 2005.

No one here is under the illusion that there is a one-step solution to reducing obesity. With ads encouraging us to eat too much of the wrong kinds of foods, neighborhoods designed for driving and not walking, restaurants serving ever-increasing portion sizes, McDonalds' announcement this week notwithstanding, slowing the obesity epidemic will take a multifaceted effort.

And Congress has an obligation to engage itself in that effort. There are countless other steps we could take that would support Americans' efforts to eat well, maintain a healthy weight, such as getting junk food out of schools, strengthening the Centers for Disease Control nutrition and physical activity division, fully funding CDC's VERB campaign, which promotes physical activity in young people.

With legislation I have introduced, the Meal Education and Labeling Act, we could strike a real blow at frivolous litigation aimed at restaurants and at the same time we can actually do something about obesity. It addresses one of leading causes of the rise in obesity rates and that is the fact that people are eating out more frequently.

Today, we spend about half of our food dollars at restaurants. In 1970, Americans spent just 26 percent of their food dollars on restaurant meals. Children eat almost twice as many calories when they eat at a restaurant as they do when they eat at home.

The Meal Education Labeling Act would extend nutrition labeling beyond packaged foods that you find at your grocery store to include foods at fast-food and other chain restaurants. It would do it by requiring fast-food and chain restaurants, that is, companies with 20 or more restaurants under the same trade name, not mom and pop restaurants, they would have to list calories, saturated plus trans fats, and sodium on printed menus and calories on menu boards. But most importantly, it would give consumers the necessary nutritional information to make healthy choices for themselves.

You might think that Americans do not want to be bothered with additional information they supposedly already know, but the evidence suggests otherwise. Not only do three-quarters of American adults report using the food labels on a regular basis that they find on packaged foods in the grocery stores, but 48 percent say the nutrition information on those labels has caused them to change their minds about what they buy.

Giving people the information that they need to make informed decisions about what they eat is the kind of approach that this body should be taking today in addressing obesity.

We may avoid litigation if we move in this direction. That is a real step toward helping encourage personal responsibility in food consumption. It can be done in a way that protects in-

dustry, does not hurt our mom and pop restaurants. Instead, as we have seen countless times before, this majority has chosen again to use a very important public health issue to pursue a narrow and a completely unrelated political agenda.

Mr. Speaker, we should do something about obesity in this country, but this bill is not the way to go about it.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. NEY), the chairman of the Committee on House Administration.

Mr. NEY. Mr. Speaker, I thank my colleague from Texas (Mr. SESSIONS), who has done such a good job on framing the proper type of debate on this rule today and has done a good job on the rule.

Mr. Speaker, I rise today in strong support of House Resolution 552 and the underlying bill itself, H.R. 339, the Personal Responsibility and Food Consumption Act.

As original cosponsor of H.R. 339, I commend the gentleman from Florida (Mr. KELLER) for introducing, I think, a very important piece of legislation and the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for working towards its passage.

When this situation occurred, I think it was the first time in New York, and as a parent I can relate to this, it clearly pointed to the fact that a parent could not control their child, could not control how many times they went to a restaurant per day or where they went to, no form of responsibility. So they just ended up going with some plaintiffs' lawyers and they filed a lawsuit.

Now, there are serious issues that have been discussed by both sides of the aisle about obesity and what, in fact, should happen, and exercise. And we can get into those issues. But I believe, Mr. Speaker, firmly, and I said it at the time the day those lawyers ran around and started this with the lawsuits, our judicial system that day was hijacked.

□ 1130

It has been hijacked by greedy, blood-sucking, immoral plaintiffs' attorneys. They have made a ridiculous situation, and they have made the ridiculous the reality. What was once thought of as a hilarity on late-night comedy shows has been brought into mainstream media by absurd frivolous lawsuits.

The situation really is not laughable, though it is scary. These actions are clogging our courts, driving our doctors out of practice, and are killing business growth in our great Nation, if we want to talk about jobs today.

What is the purpose, you may ask? Will they promote social justice or make America safer? The answer is no. These suits are to line the pockets of America's trial bar. Contingency fees

of 40 percent plus court costs leave lawyers enriched and their clients baffled. In big-time class actions, lawyers are hauling in fees that range as high as \$30,000 per hour. I guarantee you that their clients are not receiving awards at that same rate.

Now, Mr. Speaker, the same class-action lawyers that have sued other industries are turning towards our restaurant industry, pure and simple. They have held strategy sessions and seminars to hatch their schemes estimating they could reap hundreds of billions of dollars in settlements from the so-called obesity lawsuits.

The lawsuits charge that children are overweight because of cheap fast food and aggressive food marketing by restaurants. But when you look at the underlying fact, it is clear that the American tort system is being exploited once again, pure and simple. Statistics from the National Bureau of Economic Research show that 60 percent of Americans' weight gain over the past 2 decades is attributable to increases in sedentary life-styles.

The American Academy of Pediatrics has found that only 20 percent of children participated in daily physical education programs in 1999, compared to 80 percent in 1969. Nutritional data shows that teen obesity rose 10 percent in 1980 and the year 2000. Teens' caloric intake rose only 1 percent during that time, while their levels of physical activity dropped by 13 percent.

Mr. Speaker, the judicial system is being used by industrious law firms and plaintiffs' lawyers who sue without repercussion. Their strategy is simple: sue until the defendants concede; once the restaurant company settles, the flood gates will open.

As you can tell, I am not an attorney myself, I am a teacher by degree, but I have been around long enough to know that opening the flood gates of litigation is bad news. It is bad news for our courts. It is bad news for our doctors. It is bad news for business. It is ultimately bad news for America.

The restaurant industry employs more than 12 million Americans. Restaurant companies lose just by being forced to defend these types of crazy lawsuits. They are forced to shift precious resources away from expanding their business and creating jobs and towards defending lawsuits solely filed to satisfy the insatiable appetites of the plaintiffs' bar.

Mr. Speaker, it is the Congress's obligation to give American businesses the tools necessary to defend themselves from this type of litigation. There are proper times for lawsuits; I know that. There is a way to work at this. We have to look at exercise and education and responsibility within the restaurant industry and within the American population, period. But these insane and crazy lawsuits are absolutely not the way. I think the gentleman from Florida (Mr. KELLER) has a responsible approach to this problem.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all these insane, crazy lawsuits that people are referring to are getting dismissed and the system seems to be working.

We have a real problem and this bill does not address that problem in any way, shape, or form. If anything, this bill says to the restaurant industry and the food industry, you do not have any responsibility, you do not have any responsibility to our kids and the type of products that you try to peddle to them. I think that is the wrong message.

Mr. Speaker, I include in the RECORD an article that appeared in today's Washington Post entitled "Obesity Passing Smoking As Top Avoidable Cause of Death."

[From the Washington Post, Mar. 10, 2004]

OBESITY PASSING SMOKING AS TOP AVOIDABLE CAUSE OF DEATH

(By Rob Stein)

America's weight problem is rapidly overtaking cigarette smoking as the leading cause of preventable deaths, federal health officials reported yesterday.

Although tobacco is still the top cause of avoidable deaths, the widespread pattern of physical inactivity combined with unhealthy diets is poised to become No. 1 because of the resulting epidemic of obesity, officials said.

"Obesity is catching up to tobacco as the leading cause of death in America. If this trend continues it will soon overtake tobacco," said Julie L. Gerberding, director of the federal Centers for Disease Control and Prevention, which conducted the study.

If current trends continue, obesity will become the leading cause by next year, with the toll surpassing 500,000 deaths annually, rivaling the number of annual deaths from cancer, the researchers found.

"This is a tragedy," Gerberding said. "We are looking at this as a wake-up call."

Being overweight or obese makes people much more likely to develop a variety of deadly health problems, including diabetes, heart disease and cancer.

In response, the Bush administration announced a new public education program yesterday, including a humorous advertising campaign that encourages Americans to take small steps to lose weight. In addition, the National Institutes of Health proposed an anti-obesity research agenda. Tomorrow, a special task force will present the Food and Drug Administration with recommendations on what that agency can do to help reverse the cresting public health crisis.

"Americans need to understand that overweight and obesity are literally killing us," said Health and Human Services Secretary Tommy G. Thompson. "To know that poor eating habits and inactivity are on the verge of surpassing tobacco use as the leading cause of preventable death in America should motivate all Americans to take action to protect their health."

Critics, however, immediately denounced the moves as inadequate, saying the administration should take more aggressive steps to encourage more healthful diets, and force the food industry to improve its products and stop advertising junk food to children.

"The government should have been much more aggressive about this much earlier," said Kelly Brownell, director of Yale University's Center for Eating and Weight Disorders. "Even now, the administration defaults to explaining the problem away by individual responsibility and lack of physical activity rather than focusing on the toxic food environment."

The new estimates of the rising toll of obesity come in the first update of a landmark paper that ranked the nation's preventable causes of death in 1990.

Cigarette smoking, which increases the risk of a host of illnesses including lung cancer, emphysema and heart disease, topped that list. But antismoking campaigns have led to a steady decline in the number of Americans who use tobacco, slowing the rise in the resulting toll of illness and death.

In the new analysis, published in today's Journal of the American Medical Association, Gerberding and her colleagues conducted a comprehensive review of the medical literature to calculate the most precise estimate possible of the risk of dying from all the leading causes of preventable death, including being obese or overweight. They then multiplied that risk by the number of Americans known to be overweight or obese, based on long-term, ongoing national surveys used to track the nation's health, which are the most accurate data available. The result, the researchers said, is the most reliable such estimate to date.

Tobacco still ranked No. 1, accounting for about 435,000 deaths, or 18.1 percent of the total. But poor diet and physical inactivity were close behind and rapidly increasing, causing 400,000 deaths, or 16.6 percent. That represented a dramatic change from 10 years earlier, when tobacco killed 400,000 Americans (19 percent) and poor diet and physical inactivity killed 300,000 (14 percent).

"There's been a big narrowing of the gap," said Ali H. Mokdad, who heads the CDC's behavioral research branch. It is particularly striking because the toll of every other leading cause of preventable death—including alcohol, infections, accidents, guns and drugs—steadily decreased over the same period, Mokdad said.

Despite intense public concern, the number of overweight or obese Americans has continued to climb to epidemic proportions. In 1990, about 60 percent of adult Americans were either overweight or obese, including about 20 percent who were obese. By 2000, that number had climbed to 64 percent being obese or overweight, including about 30 percent who were obese.

"Physical inactivity and poor diet is still on the rise. So the mortality will still go up. That's the alarming part—the behavior is still going in the wrong direction," Mokdad said.

Experts praised the government for highlighting the worrisome trend and taking countermeasures. But several said the severity of the problem warrants a much more intensive, innovative response.

"If we just count on the American population to change their eating habits and exercise habits, we're going to continue to have obesity," said Richard L. Atkinson, president of the American Obesity Association. "What we're doing is not working."

The government should consider more innovative strategies than simply encouraging people to eat better and exercise, such as subsidizing the cost of healthful foods such as fresh fruits and vegetables to make it more affordable to eat well.

"Let's start looking at things that make a difference," Atkinson said.

The federal government could take much more dramatic action, said Yale's Brownell. The Department of Agriculture "has the power to get rid of soft drinks and snack foods in the schools, and they're not. The [Federal Trade Commission] could deal with the tidal wave of unhealthy food advertising aimed at children. The government could change agriculture policy to subsidize the industry making healthy foods instead of unhealthy ones," he said.

Officials rejected suggestions that the administration take more dramatic steps, such

as requiring food labeling at fast-food restaurants or prohibiting certain sugary, fatty products in schools.

"I don't want to start banning things," Thompson said. "Prohibition has never worked."

Officials have "been elated by the response" of the private sector to promote more healthful lifestyles, Surgeon General Richard H. Carmona said. "Everything we've seen from the industry has been positive."

Thompson urged Congress to pass legislation granting tax credits to people who lose weight, and said he has been lobbying health insurers to cut rates for those who lose weight or exercise.

Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time.

I have been intimidated to follow the chairman to the well since he does have impeccable credentials in the area of nutrition. He is the gentleman responsible for renaming French fries and French toast, although, of course, that did not do much for the caloric content of those food items.

But we do have a serious problem in this country; and, unfortunately, this bill and this debate will not rise to that issue. The statistics show an alarming increase in obesity among adults and, most alarmingly, an extraordinary increase in our youth. This can and will lead to real health problems. Those were talked about previously.

So we have a real problem. This could become a crisis and the question is, Why are we here today? Is there a crisis in litigation? Yes, there have been a few flaky lawsuits filed that have been dismissed, including one being dismissed with prejudice, something judges do not do routinely.

I think the majority is demeaning the intelligence of our juries, of the Americans who will sit there and cast judgment on their peers and say, no, have a little self-control; they did not make you eat that food. That is what the juries and judges have said so far, and I think they will continue to say.

But beyond that, they have said fitness and health cannot be legislated. Well, they might remember a former Republican who had a little more productive idea about this, Dwight David Eisenhower. He brought about the Presidential Fitness Program in the 1950s, mandatory physical education in all the schools in America because of concerns of so many males failing the physical for the draft in World War II and Korea. That was mandated when I was a kid growing up, and then sports were free.

What do we have today? Most States, many States no longer have mandatory physical education. They say they cannot afford it. In my State, kids have to pay to play sports. So many of them do not do it.

What we could do a lot more productively here today on the floor would be to consider legislation to add a little amendment to the so-called No Child Left Behind bill that would help our States, our local school districts rein-

state or mandate that they reinstate physical education; but since it will be a Federal mandate, give them some help with the Federal mandate, something that the majority party has failed to do with No Child Left Behind and other mandates here in the Congress.

But let us send down a rule: we will have physical fitness. It will be mandatory. We will have kids able to play sports without having to pay and the Federal Government seeing that being in the national interest to avoid a crisis in health care caused by preventable illness, caused by obesity, we are going to take those steps. But that is not an amendment that would be allowed to this bill; that is not the subject here today. Instead, we will hear little funny speeches on that side where people will link together alliterations, as did the esteemed chairman of the committee, not dealing with the real problem.

Here we are. We will be done early today. Do not have a highway bill. Do not have extended unemployment benefits. We cannot even get labels on our food that are meaningful for country of origin. Congress is being defied by the administration. Do we have time for those real issues? No, but we have time for this little frolic.

This is a pretty sad day in the House of Representatives. Let us deal with this real problem and deal with it seriously and appropriately.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Orlando, Florida (Mr. KELLER), the original sponsor of the bill.

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me time.

I support the rule, and I support the bill as well. I wanted to briefly just touch on three issues. First, a little bit about the bill's substance; second, I want to talk about the process which led up to this fair rule; and, third, just to touch on the childhood obesity issue which recently has been raised by my colleagues on the other side of the aisle.

First, in terms of the bill's substance, the gist of this legislation is that there should be common sense in the food court, not blaming other people in the legal court. We need to get back to the old-fashioned principles of common sense and personal responsibility and get away from this new culture where everybody plays the victim and tries to blame others for their problems.

Now, I have heard from some of the other speakers that this is a frolic; this is just a waste of time. We should be talking about jobs. Well, it is interesting to me because we are talking about protecting the single largest private sector employer in the United States that provides 12 million jobs. Why do these people pretend to love jobs yet hate the employers who create these jobs? It defies common sense as much as their opposition to this bill.

Now, let us talk about the process a little bit. I support this rule, an open modified rule; and let me tell you a little bit about the background here. It is true based on an independent Gallup poll that nearly nine in 10 Americans oppose holding the fast-food industry legally responsible for the diet-related health problems of people who eat that kind of food on a regular basis. Interestingly, overweight people oppose this just like skinny people do; Republicans just like Democrats do. The country overwhelmingly, 89 percent, opposes these types of lawsuits.

Yet, nevertheless, every step of the way we have given this small percent of the people and their representatives who think it is a good idea the opportunity to have their fair say. We had a hearing on this bill and allowed the minority to call witnesses that they wanted. What witness did they call? What guy did they think most helped them? They called a man named John Banzhaf who said, "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict as we did with tobacco, it will open up the flood gates." That is who they called.

So when we talk about opening up the flood gates, that this is a problem, and then they come today and say, it is not a problem, what are we doing here? There is no problem. Yet their own witnesses tell us they want to open up the flood gates. But they had their hearing. We then had a mark-up. We let them offer any amendments they wanted to. The amendments were shot down.

After the mark-up, we then moved it to the floor. I appeared before the Committee on Rules. I did not say I wanted a closed rule or anything. I said, I trust the Committee on Rules to fashion the appropriate rule, and they gave them this open rule that any Member of 435 can offer something provided it is preprinted in the RECORD. So we have been pretty fair about the process here, especially given the fact that their opposition has so little support among the American people.

Third, let me address the issue of childhood obesity. Childhood obesity is a very serious problem in this country. In the past 30 years the childhood obesity rates have doubled. Why is that? Well, I do not stand before you in the well of Congress and hold myself out as the world's leading expert in fitness and health. But I did have the happy privilege of questioning Dr. Kenneth Cooper on February 12 of this year, who appeared before the Committee on Education and the Workforce who is the father of the aerobics movement, and nobody is more well respected. This is what he said: "Thirty years ago did kids come home from school and eat potato chips and cup cakes and cookies? They absolutely did, just like they do today. The difference is they then went out and rode their bikes and played with their friends and did all other sorts of things." Nowadays, he said, those same kids come home from

school and sit on the couch and play video games and watch TV. He told us the average child spends only 900 hours a year in school and 1,023 hours in front of that TV set playing video games or watching TV.

Meanwhile, we now have only one State in the country, Illinois, that mandates physical education programs. I asked Dr. Kenneth Cooper, Do you think these lawsuits against the fast-food companies are going to make anyone skinnier? He said, absolutely not. Is it going to help to put a tax on Twinkies? Is that going to make people skinnier? Absolutely not. What is the answer? He told us the answer is personal responsibility and getting young people involved in daily physical activity. That is the kind of commonsense approach that most people in this country can relate to.

I urge my colleagues to support the rule and support the bill. They are both very fair.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's comments, but I would just say that what his bill does is it protects an industry that does not need to be protected at this particular point. We are dealing with a problem that does not exist. The problem that does exist is that we do have a problem with obesity in this country. This bill does nothing to deal with that issue. If anything, what it does is it tells the fast-food industry, you have no responsibility to our kids. You can do whatever you want to do. And that is the wrong message we want to be sending at this particular point.

I also want to correct the gentleman on one other thing. He referred a couple of times to this rule as an open rule. This is not an open rule. This is not an open rule. And by the definition taken by the Republicans when they were in the minority, they said any rule that is not considered under a completely open process is considered restrictive, and this is not a completely open process. They further said that these rules are the rules that limit the number of amendments that can be offered and include the so-called modified open and modified closed, as well as completely closed, rules.

This is not an open rule. The Republican majority when they came into power said they were committed to an open process. They have given us anything but an open process. And the question that I asked the distinguished chairman of the Committee on Rules still stands. If a Member is watching this debate and scratching their head, why are we debating such a trivial matter when we have so many other issues to deal with that really do impact the American people very directly, and they wanted to come down here right now and offer an amendment, they would be unable to under this restrictive process that the Republicans on the Committee on Rules have given us today.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the distinguished Member from the Committee on Rules for yielding me time.

Mr. Speaker, I rise today urging my colleagues to oppose this rule and reject the Personal Responsibility in Food Consumption Act.

I think this is a trivial bill about obesity lawsuits that have not resulted in a cent in damages against anyone. So this is not about fixing something that is broken. This is pursuing something that, most frankly, does not exist. In something that refers to the food industry, it is an old quote, an old hamburger ad, "Where's the beef?"

There are more pressing issues for us to tackle, particularly regarding food safety.

□ 1145

I want to direct my comments to this area of food safety, and I want to talk about lawsuits that have consequences and very serious consequences.

Meat processors have sued the USDA to block the enforcement of food safety standards that are designed to protect the public from pathogens like e-coli and salmonella. The processors have either won or forced the government to settle these cases, and our food safety system has been terribly weakened. One of the processors failing to meet basic standards on three separate occasions was able to continue to sell meat for use in school lunches.

To fight the impact of these cases, I have introduced a bill called Kevin's Law, named in memory of a 2½-year-old boy named Kevin Kowalczyk who died from e-coli poisoning in 2001.

Kevin's law makes it clear that the USDA can set and enforce food safety standards for deadly pathogens. This is not radical policy. This is something that is supported by the National Academy of Sciences, and this legislation has bipartisan support in both the House and the Senate.

I thank my colleagues the gentleman from Pennsylvania (Mr. ENGLISH) and the gentlewoman from Pennsylvania (Ms. HART) and Senators HARKIN and SPECTER for cosponsoring and supporting this legislation. It is something the Congress should be advancing on.

Mr. Speaker, 5,000 Americans die from food-borne illnesses every year in our country. The lawsuits this bill seeks to stop have not harmed anyone. In fact, as I said earlier and others have mentioned, this is about pursuing something that does not even exist. When we juxtapose what is taking place here on the floor today and what I described that threatens Americans today where 5,000 Americans die from food-borne illnesses, this is what we really should be pursuing.

The American people would support that path to eliminate these pathogens that are actually taking American lives. So if we are talking about ending destructive lawsuits, the House should

be debating Kevin's Law to put some teeth into our food safety system.

If there is something that the American people I think have taken for granted are our very, very high standards in terms of food safety, but they do not necessarily exist any longer. So I urge my colleagues to defeat this rule and reject the underlying bill.

Mr. SESSIONS. Mr. Speaker, I would like to notify my colleague that we do not have any further speakers at this time, and I would entertain him to please feel free to run down that time and then I will choose to close.

Mr. MCGOVERN. Mr. Speaker, I will close the debate on our side, and I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. MCGOVERN. Mr. Speaker, first, I will enter into the RECORD a letter from the Center for Science in the Public Interest opposing H.R. 339.

CENTER FOR SCIENCE IN THE  
PUBLIC INTEREST,

Washington, DC, June 18, 2003.

Re hearing on H.R. 339.

Hon. CHRIS CANNON,  
Chairman, Subcommittee on Commercial and  
Administrative Law Committee on the Judiciary,  
Rayburn House Office Building,  
Washington, DC.

DEAR CHAIRMAN CANNON: On behalf of our 700,000 members in the United States, I request that you make this letter part of the record of the June 19, 2003 hearing on H.R. 339, The Personal Responsibility in Food Consumption Act.

The Center for Science in the Public Interest ("CSPI") strongly opposes H.R. 339. Despite its stated purpose of banning frivolous lawsuits, H.R. 339 bans any lawsuit against a manufacturer, distributor, or seller of a food or a non-alcoholic beverage "unless the plaintiff proves that, at the time of sale, the product was not in compliance with applicable statutory and regulatory requirements."

H.R. 339 ignores the fact that both legislatures and administrative agencies frequently are too busy to enact specific standards dealing with a particular food safety or nutrition problem, and so the victims must turn to the courts for help. Meritorious lawsuits can, of course, spur the food industry to improve its practices.

Both Congress and state legislatures, recognizing their inability to deal with the myriad of food safety and nutrition problems, have delegated regulatory responsibilities to specific agencies. Congress, for example, has delegated regulatory responsibility over food to the Food and Drug Administration ("FDA"), the Department of Agriculture, and the Environmental Protection Agency.

However, these agencies, like their state counterparts, do not have enough resources to promptly address all the new concerns about food safety and nutrition. For example, in February 1994 CSPI petitioned the FDA to require the disclosure of trans fatty acids on packaged foods. More than five years later, in November 1999, the FDA published a proposed regulation in response to our petition. The FDA still has not issued a final rule, although FDA Commissioner Mark McClellan has said that a final rule, requiring the disclosure of the amount of trans in packaged foods, will be announced in the near future.

In conclusion, H.R. 339 should be rejected because lawsuits can play a valuable role in

protecting consumers by filling the interstices in legislative and regulatory requirements.

Sincerely,

MICHAEL F. JACOBSON, PH.D.,

*Executive Director.*

Let me conclude my remarks by again expressing my concern, first of all, over the rule because this is a restrictive rule, and what I have been trying to find out from the chairman of the Committee on Rules, and maybe the gentleman from Texas may be able to enlighten me on this, is the wave of the future, no more completely open rules? Are we now going to be forced to deal with restrictive rules on every bill that we now deal with?

Mr. SESSIONS. Mr. Speaker, will the gentleman yield?

Mr. MCGOVERN. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Speaker, I believe we had an open rule last week.

Mr. MCGOVERN. We have had one open rule out of, I think, nine, but I mean, it seems that now we are being required to preprint all our amendments in advance, which by my colleagues' own definition is a restrictive rule. Is that the wave of the future?

Mr. SESSIONS. I thank the gentleman for allowing me to respond. The Committee on Rules, when we file the rule and when we prepare these documents ahead of time, we notify every Member of Congress of our intent to have a meeting at the Committee on Rules to consider a subject. We ask them to please preprint those things that would be necessary. We ask every Member to please work with legislative staff who would help in preparing those documents to make sure that they are in order, would be made in order under the rule, under the rules of this House, and we believe we are trying to do things to move legislation forward, allow time just as we have done here, notify people ahead of time.

One of the things about this process is that for years and years the House has worked off Jeffersonian rules. We have a Speaker who is up here. We have a parliamentarian. We have people who make decisions about what is right and what is wrong and what is fair and what is not, and we believe what we have done here today from March 4 was said here on the floor of the House, all Members of Congress—

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, I appreciate the answer. I guess the question that I asked to the chairman of the Committee on Rules, and I will ask the gentleman from Texas, if a Member of either party is watching this debate and would like to offer an amendment based on something that they have heard here today, do they have the right to come to the floor and offer an amendment at this particular point?

Mr. SESSIONS. Mr. Speaker, if the gentleman would yield, the answer is no.

Mr. MCGOVERN. Okay. So, again, it kind of makes my point of the restric-

tive nature of this process, and I raise this issue because I hope that this is not going to be a trend where Members are going to be restricted.

Again, it is not just something the Democrats feel passionately about. Again, I have been reading quotes from Republicans over the years who feel very passionately about the importance of not having preprinting requirements because they believe that that constitutes a restrictive rule. So I think that there is a bipartisan consensus here that we should move away from restricting debate and restricting what can be offered and opening up this process on controversial bills and on noncontroversial bills. That is the only point I would make to the gentleman.

With regard to the bill that we are talking about here today, I will again say that I regret that we are dealing with this particular bill today because it does not address any real problem. This is a bill that corrects a problem that does not exist. These lawsuits that people are complaining about with regard to obesity and the fast food industry are being routinely dismissed. This is not a problem.

The problem is obesity. The problem we should be talking about here is how to make sure that our kids get more nutritious foods. The issue that we need to be dealing with here is how to make sure that the Federal programs that provide breakfasts and lunches to our children in schools meet proper nutrition guidelines.

The issue we should be talking about is better labeling, informing the public in a better way about what, in fact, they are eating. We should be encouraging more corporate responsibility by the fast food industry, and that is not being debated here. In fact, what we are trying to do is we are sending the exact opposite signal to the fast food industry.

We should be encouraging more physical fitness programs in our schools and so that our young people can take advantage of them, and we should also be having a discussion on this floor about the issue of hunger, which is relevant to this issue of obesity.

As I pointed out in my opening statement, people who have precious little resources tend to buy things that are high in calories, that are not nutritious, and there is a relationship between hunger and obesity, and it is something we never even talk about on the floor of this House.

But then we bring this bill to the floor. We bring this bill to the floor, and we are telling the people who are watching here today that we are addressing a huge problem out there, a problem that does not exist, and we are bringing this bill up today and we are only in for a couple of days, notwithstanding the fact that we are not dealing with the issue of extending unemployment benefits to those workers who are unemployed, which is a national disgrace.

I do not know how people can come here and appear on the House floor

with a straight face having not dealt with that issue. I know the gentleman from Texas' (Mr. SESSIONS) district, like my district, includes a number of people who are out of work, who have run out of their unemployment benefits, who are desperately trying to figure out how to make ends meet, put food on their table and pay their bills, and they are looking to us to help them out, to provide them a bridge until they can get a job. We are not doing anything here, and we should be ashamed of that fact.

The gentleman from Oregon mentioned the transportation bill that is kind of languishing in committee. That will put people to work, but we are not dealing with that. We are not dealing with the issue of those who do not have health insurance. We are not dealing with anything that matters to anybody, and here we are again dealing with an issue that really is trivial. This place is becoming a Congress where trivial issues are debated passionately and important ones not at all.

So, for a whole bunch of reasons, I oppose the rule because it is restrictive, and I oppose this bill because it is silly. We should not be dealing with this today. We should be dealing with something important.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SESSIONS asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SESSIONS. Mr. Speaker, this House has, in the 8 years I have served in it had debate after debate, hours on the floor, to make sure that we discuss the issues that are of relevance and important to the American public, but these same things also take place, the debates, in our committee system, and committees hold hearings. Committees go around the country to hear testimony from people about issues like obesity, like prescription drugs, like health care, that are important to the American public and to our health and to our safety.

Mr. Speaker, these issues about obesity and about what the answer would be, we hear from the trial lawyers that they want to open up the floodgates, and we hear from people who are engaged from the nutritional side talking about how better labeling would be good or how food that is served to our children should be leaner and have less fat. We have heard from people like Dr. Kenneth Cooper from Dallas, Texas, talk about how our children need more physical fitness and to be more active. All of these things have contributed to a part of what this bill is about.

Mr. Speaker, I will include in the RECORD at this point the testimony of Dr. Gerard Musante, who is the founder of the Structure House, before the Senate Subcommittee on Administrative Oversight and the Courts on October 16.

## TESTIMONY OF DR. GERARD MUSANTE

Good afternoon, Chairman Sessions and Honorable members of the Subcommittee on Administrative Oversight and the Courts. I am Dr. Gerard J. Musante and I appreciate the opportunity to appear before you today. I have been called here to share my expertise and educated opinion on the importance of personal responsibility in food consumption in the United States. This lesson is one I have been learning about and teaching for more than 30 years to those who battle moderate to morbid obesity—a lesson that emphasizes the criticality of taking responsibility for one's own food choices. I am testifying before you today because I am concerned about the direction in which today's obesity discourse is headed. We cannot continue to blame any one industry or any one restaurant for the nation's obesity epidemic. Instead, we must work together as a nation to address this complex issue, and the first step is to put the responsibility back into the hands of individuals.

As a clinical psychologist with training at Duke University Medical Center and The University of Tennessee, I have worked for more than 30 years with thousands of obese patients. I have dedicated my career to helping Americans fight obesity. My personal road, which included the loss and maintenance of 50 of my own pounds, began when I undertook the study of obesity as a faculty member in the Department of Psychiatry at Duke University Medical Center. There, I began developing an evidenced-based, cognitive-behavioral approach to weight loss and lifestyle change. I continue to serve Duke University Medical Center as a Consulting Professor in the Department of Psychiatry. Since the early 1970's, I have published research studies on obesity and have made presentations at conferences regarding obesity and the psychological aspects of weight management. Today, I continue my work at Structure House—a residential weight loss facility in Durham, North Carolina—where participants come from around the country and the world to learn about managing their relationship with food. Participants lose significant amounts of weight while both improving various medical parameters and learning how to control and take responsibility for their own food choices. Our significant experience at Structure House has provided us with a unique understanding of the national obesity epidemic.

Some of the lessons I teach my patients are examples of how we can encourage Americans to take personal responsibility for health and weight maintenance. As I tell my participants, managing a healthy lifestyle and a healthy weight certainly are not easy to do. Controlling an obesity or weight problem takes steadfast dedication, training and self-awareness. Therefore, I give my patients the tools they need to eventually make healthy food choices as we best know it. Nutrition classes, psychological understanding of their relationship with food, physical fitness training and education are tools that Structure House participants learn, enabling them to make sensible food choices. As you know, the obesity rates in this country are alarming. The Centers for Disease Control and Prevention have recognized obesity and general lack of physical fitness as the nation's fastest-growing health threat. Approximately 127 million adults in the United States are overweight, 60 million are obese and 9 million are severely obese. The country's childhood obesity rates are on a similar course to its adult rates, as well as increases in type II diabetes. Fortunately Americans are finally recognizing the problem. Unfortunately, many are taking the wrong approaches to combating this issue.

Lawsuits are pointing fingers at the food industry in an attempt to curb the nation's obesity epidemic. These lawsuits do nothing but enable consumers to feel powerless in a battle for maintaining one's own personal health. The truth is, we as consumers have control over the food choices we make, and we must issue our better judgment when making these decisions. Negative lifestyle choices cause obesity, not a trip to a fast food restaurant or a cookie high in trans fat. Certainly we live in a litigious society. Our understanding of psychological issues tells us that when people feel frustrated and powerless, they lash out and seek reasons for their perceived failure. They feel the victim and look for the deep pockets to pay. Unfortunately, this has become part of our culture, but the issue is far too comprehensive to lay blame on any single food marketer or manufacturer. These industries should not be demonized for providing goods and services demanded by our society.

Rather than assigning blame, we need to work together toward dealing effectively with obesity on a national level. Furthermore, if we were to start with one industry, where would we stop? For example, a recent article in the Harvard Law Review suggests that there is a link between obesity and "preference manipulation," which means advertising. Should we consider suing the field of advertising next? Should we do away with all advertising and all food commercials at half time? We need to understand that this is a multi-faceted problem and there are many influences that play a part. While our parents, our environment, social and psychological factors all impact our food choices, can we blame them for our own poor decisions as it relates to our personal health and weight? For example, a recent study presented at the American Psychological Association conference showed that when parents change how the whole family eats and offer children wholesome rewards for not being couch potatoes, obese children shed pounds quickly. Should we bring lawsuits against parents that don't provide this proper direction? Similarly, Brigham and Women's Hospital in Boston recently reported in "Pediatrics" that children who diet may actually gain weight in the long run, perhaps because of metabolic changes, but also likely because they resort to binge eating as a result of the dieting. Do we sue the parent for permitting their children to diet?

From an environmental standpoint, there are still more outside influences that could be erroneously blamed for the nation's obesity epidemic. The Center for Disease Control has found that there is a direct correlation between television watching and obesity among children. The more TV watched, the more likely the children would be overweight. Should we sue the television industry, the networks, cable, the television manufacturers or the parents that permit this? And now we have internet surfing and computer games. Where does it stop? School systems are eliminating required physical education—are we to also sue the school systems that do not require these courses?

Throw social influences into the mix and we have a whole new set of causes for obesity. Another recent study in "Appetite" indicated that social norms can affect quantitative ratings of internal states such as hunger. This means that other people's hunger levels around us can affect our own eating habits. Are we to blame the individuals who are eating in our presence for our own weight problems? As evidenced in these studies, we cannot blame any one influencing factor for the obesity epidemic that plagues our nation. Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get

themselves "off the hook," to say it's not their fault, and that they are a victim. To do this can bring about feelings of helplessness and then resignation. Directing blame or causality outside of oneself allows the individual not to accept responsibility and perhaps even to feel helpless and hopeless. "The dog ate my homework" and "the devil made me do it" allows the individual not to take serious steps toward correction because they believe these steps are not within their power. We must take personal responsibility for our choices.

What does it mean to take personal responsibility for food consumption? It means making food choices that are not detrimental to your health, and not blaming others for the choices we make. Ultimately, Americans generally become obese by taking in more calories than they expend. But certainly there are an increasing number of reasons why Americans are doing so producing rising obesity rates. Some individuals lack self-awareness and overindulge in food ever more so because of psychological reasons. Others do not devote enough time to physical activity, which becomes increasingly difficult to do in our society. Others lack education or awareness as it relates to nutrition and/or physical activity particularly in view of lessened exposure to this information. And still others may have a more efficient metabolism or hormonal deficiencies. In short, honorable members of the Subcommittee, there is yet much to learn about this problem.

Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction. No industry is to blame and should not be charged with solving America's obesity problem.

Rather than pointing fingers, we should be working together on a national level to address the importance of personal responsibility in food consumption. The people who come to Structure House have a unique opportunity to learn these lessons, but they are only a select few. These lessons need to be encouraged on a national level, from an early age—in schools, homes and through national legislation that prevents passing this responsibility onto the food or other related industries. In closing, I'd like to highlight the fact that personal responsibility is one of the key components that I teach my patients in their battle against obesity. This approach has allowed me to empower more than 10,000 Americans to embrace improved health. I urge you to consider how this type of approach could affect the obesity epidemic on a national level. By encouraging Americans to take personal responsibility for their health by limiting frivolous lawsuits against the food industry, we can put the power back into the hands of the consumers. This is a critical first step on the road toward addressing our nation's complex obesity epidemic.

For years, I have seen presidents call for "economic summits." I urge that we consider an "obesity summit." Let me suggest instead of demonizing industries that we bring everyone to the table—representatives in the health care industry, advertising, restaurants, Hollywood, school systems, parent groups, the soft drink industry, and the bottling industry. Instead of squandering resources in defending needless lawsuits by pointing fingers, let's make everyone part of the solution. Let us encourage a national obesity summit where all the players are asked to come to the table and pledge their considerable resources toward creating a national mind set toward solving this problem.

That would be in the interest of the American people.

I feel privileged to be a part of the Subcommittee's efforts. I want to thank you for allowing me to testify here before you today and I will now be glad to answer any questions.

Mr. Speaker, let me tell my colleagues what he said. He is a gentleman who has worked for 30 years on obesity in this country, and he said, "Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault, and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction."

Mr. Speaker, I will tell my colleagues that the Republican House and the Republican Senate are addressing the issues. We are doing those things that not only Members find of interest to people back home, but also in the interest of what is the right thing for America to do.

I feel like what we are doing today is right in line with what all 50 States have and that is a law that says we will not take these fast food restaurants to task, to go and have a lawsuit against them, and the Federal Government, we, as members of Congress, are going to affirm that, to avoid a problem before it becomes one. We have been warned about the problems. We are trying to do aggressive things and the right thing for it.

I support this rule. I support this underlying legislation, and I think that it will win overwhelmingly because this is the best answer.

Mr. HASTINGS of Florida. Mr. Speaker, we are fat. America is the fattest nation on the planet and getting fatter all the time. It is estimated that as many as one in five Americans is obese, a condition defined as being more than 30 percent above the ideal weight based on height.

Being overweight and obese in the United States occurs at higher rates in racial and ethnic minority populations, such as African Americans and Hispanic Americans, compared with White Americans. Persons of low socioeconomic status within minority populations appear to be particularly affected by being overweight and obese. Also, according to the surgeon general, women of lower socioeconomic status are about 50 percent more likely to be obese than their better-off counterparts.

Obesity is fast becoming our most serious public health problem. Indeed, obesity is linked to disease such as type-2 diabetes, heart disease and certain types of cancer. An estimated 300,000 Americans die each year from fat-related causes, and we spent \$117 billion in obesity-related economic costs just last year, according to U.S. Surgeon General David Satcher.

Congress should consider comprehensive legislation aimed at America's obesity epi-

demic. Instead, Mr. Speaker, here I stand debating a closed rule for a bill that pre-determines that in no plausible circumstance do food companies bear responsibility for their acts.

This bill is so overbroad that it provides immunity even where most would think liability is appropriate.

For instance, as an observant Hindu, Mr. Sharma considers cows sacred. Not surprisingly, Brij Sharma did not eat at fast food restaurants. But in 1990, when McDonald's announced that it was switching from beef fat to "100 percent vegetable oil" to cook its French fries, Mr. Sharma began going to the fast food chain to eat what he believed were vegetarian fries.

Imagine Mr. Sharma's terror when he read in a newspaper the following heading, "Where's the beef? It's in your french fries." He was outraged to learn that McDonald's french fries are seasoned in the factory with beef flavoring before they are sent to the restaurants to be cooked in vegetable oil.

McDonald's has apologized, admitted wrongdoing and agreed to pay more than \$10 million to charities chosen by vegetarian and Hindus plaintiffs. Is it not preposterous that this bill would bail out the fast food industry from liability for wrongdoing such as this? Of course it is.

In addition, this bill is an unnecessary, premature, overly broad affront to our judicial system and to our system of federalism. Congress is preemptively taking away the ability of judges and jurors to consider the particular facts and evidence of cases, and a plaintiff's ability to have his or her day in court.

Mr. Speaker, regardless of one's position on the merits of lawsuits against the industry, the line drawn between the responsibility of an individual end and society's start should be answered by judges and juries, and not by legislators in the pockets of campaign contributors.

This incredibly large portion of legislative junk food, being served to feed Republican special interests, is as unhealthy as the industry it attempts to protect.

I urge my colleagues to oppose this ill-conceived legislation.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken later today.

#### STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and

pass the bill (H.R. 2714) to reauthorize the State Justice Institute, as amended.

The Clerk read as follows:

H.R. 2714

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "State Justice Institute Reauthorization Act of 2004".

#### SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

##### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title, \$7,000,000 for each of fiscal years 2005, 2006, 2007, and 2008. Amounts appropriated for each such year are to remain available until expended."

#### SEC. 3. TECHNICAL AMENDMENTS.

(a) STATUS OF INSTITUTE.—Section 205(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(c)) is amended by adding at the end the following new paragraph:

"(3) The Institute may purchase goods and services from the General Services Administration in order to carry out its functions."

(b) STATUS AS OFFICERS AND EMPLOYEES OF THE UNITED STATES.—Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by inserting ", notwithstanding section 8914 of such title" after "(relating to health insurance)".

(c) MEETINGS.—Section 204(j) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(j)) is amended by inserting "(on any occasion on which that committee has been delegated the authority to act on behalf of the Board)" after "executive committee of the Board".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

□ 1200

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2714, the bill currently under consideration.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Congress established the State Justice Institute as a private nonprofit corporation in 1984. Its purpose is to improve judicial administration in the State courts. SJI accomplishes this goal by providing funds to State courts and to other national organizations or nonprofits that support State courts. SJI also fosters cooperation with the Federal judiciary in areas of mutual concern.

Pursuant to oversight legislation passed in the previous Congress, the

Attorney General, in consultation with the Federal Judicial Center, conducted review of the SJI operations and reported its findings to Congress late last year. The results are encouraging. The Attorney General noted that the Institute has been effective and has complied with its statutory mission, and observed that support for State court innovation and improvement is a Federal interest.

Mr. Speaker, based upon the beneficial work SJI has done, I believe it should be afforded a congressional reauthorization, and that is the purpose of this bill. More specifically, section 2 of the bill authorizes \$7 million annually for SJI operations over a 4-year cycle. Appropriated funds under section 2 are to remain available until expended. The last two bills reauthorizing the Institute contain such language which reflects the reality that no grant agency can fully expend all of its funds in the year of appropriation.

In addition, section 3 of the bill authorized the Institute to purchase goods and services from the General Services Administration. Because SJI is not a Federal agency, it is not legally authorized to procure goods and services from the GSA. In some instances, this exclusion can create unnecessary hardship. To illustrate, SJI was recently denied the ability to purchase GSA storage boxes to transfer its records to the National Archives.

Mr. Speaker, in sum, the bill represents a modest authorization for a small but important organization that assists our State court systems. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2714, the State Justice Institute Reauthorization Act. As the title indicates, H.R. 2714 reauthorizes the State Justice Institute, SJI. Reauthorization is necessary because Congress last enacted an SJI authorization bill in 1992 for a 4-year authorization period that expired in fiscal year 1996. While the Committee on Appropriations has continued to appropriate \$7 million annually for SJI, Congress should also ensure that SJI has the necessary authorization to perform its important work.

Congress created the SJI in 1984 to provide funds to improve the quality of justice in State courts. Congress also directed the SJI to facilitate enhanced coordination between State and Federal courts and develop solutions to common problems faced by all courts. It appears that the SJI has made considerable progress in pursuit of these objectives.

Since becoming operational in 1987, the institute has awarded more than \$125 million in grants to support over 1,000 projects. Another \$40 million in matching requirements has been generated from other public and private funding sources. SJI is necessary because State court judges and other ad-

vocates have historically been weak at restoring resources, especially at the Federal level, from the Department of Justice. Most of the resources they receive at the State level are devoted for personnel and courthouse construction and maintenance, not the educational programs that SJI provides. About one-third of all SJI grants are devoted to educating State judges on how to improve the operations of their courts. The remaining grants are devoted to technology projects such as systems to improve recordkeeping, document imaging, et cetera.

The authorizing statute provides for regular audits of the SJI. The Institute conducts its own oversight of grantees, and the practice of allowing a grantee to draw money for a project only on a monthly or quarterly basis allows SJI to cancel mismanaged projects.

All familiar with the SJI appear to agree it performs worthy work. Federal judges, including Chief Judge Boggs of the 6th Circuit, have contacted me to laud the work of the SJI, and in particular, the educational programs it runs for judges.

The Attorney General gave high marks to the SJI in a November 2002 report which specifically noted that the Institute has been effective, has complied with its statutory mission, and observes that some degree of support for State court innovation and improvement is a Federal interest. It is evident that the SJI deserves reauthorization, H.R. 2714 will do this. I urge my colleagues to support it today.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation will reauthorize the State Justice Institute, which is a nonprofit corporation created in 1994 to provide grants and other funding to help State courts improve their systems.

According to the Institute's mission statement, "Since becoming operational in 1987, SJI has awarded over \$120 million to support more than 1,000 projects benefiting the Nation's judicial system and the public it serves. The Institute is unique both in its mission and how it seeks to fulfill it."

The SJI provides funding for programs which help improve access to the courts. It trains and assists courts in child custody, domestic violence, juvenile crime, and sexual assault cases. The SJI also works to create the use of technology in the courtroom, as well as create reforms to reduce the amount of time and money associated with litigation.

By reauthorizing the State Justice Institute, we will provide them with \$7 million each year for the next 4 years. This money helps Americans have access to a more effective and efficient court system. The State Justice Insti-

tute has been successful in its efforts. We should make sure they are able to continue their good work, and this bill will do just that. I urge my colleagues to support it.

Mr. SCHIFF. Mr. Speaker, I rise today in support of H.R. 2714, the State Justice Institute Reauthorization Act—legislation to reauthorize appropriations for the State Justice Institute through FY 2008.

Founded by Congress more than a decade ago, the State Justice Institute (SJI) was established to support efforts to improve the quality of justice in State courts, facilitate better coordination between State and Federal courts, and foster innovative, efficient solutions to common problems faced by all courts. About one-third of all SJI grants are devoted to educating state judges on how to improve the operations of their courts. The remaining grants are devoted to technology projects such as efforts to improve recordkeeping.

The Chief Justice of the California Supreme Court, Ronald M. George, has relayed to me the important work done by the State Justice Institute, and I know his views are shared by a great many of the nation's top judges. In a 2002 report, the Attorney General of the United States also noted that the Institute has been effective and has complied with its statutory mission. In addition, he observed that support for state court innovation and improvement is a federal interest.

As a Co-Chair of the bipartisan Congressional Caucus on the Judicial Branch, I recognize the importance of working in Congress to ensure that we maintain a strong and vibrant court system in our country.

The last time that Congress reauthorized the State Justice Institute was in 1992. In the interim, the Appropriations Committee has continued to fund the important work of the Institute, and I have urged appropriators to support such funding to allow the Institute to continue its fine work. It is now time for Congress to act and to reauthorize this important program that will continue to improve the administration of justice in our courts.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise in support of H.R. 2714, the State Justice Institute Reauthorization Act of 2003. I worked with my colleagues on the House Judiciary committee to mark this bill up in September of last year, and I offered my support at that time. This bill will authorize the operations of the State Justice Institute (SJI) for Fiscal Years 2005–08 and proposes to allocate grant money to state courts and other entities that support their operation. I understand that this bill has not been reauthorized since 1996, so this bill is indeed timely, as the need certainly does exist.

Since its inception in 1984 and operation in 1987, the SJI's \$125 million in grants and \$40 million in private and other public funds have played a role in making the state court system in Houston an efficient engine of the administration of justice of which we Houstonians are quite proud. Given the urgent need for us to allocate energy and resources to our critical infrastructure and to the first responders in the context of Homeland security, the insurgence of funds to improve the overall flow of work through the state court systems is extremely important. For example, during the recent blackouts, those agencies and offices that needed this kind of assistance the most had to suffer until power was restored. In some instances, the blackouts were crippling. If there

had been a real threat of terror in those instances, the areas of vulnerability would have translated to disaster. This area of the assessment of threat and vulnerability will be best served by the provision that requires the Attorney General, in consultation with the Federal Judicial Center, to submit a report to the House and Senate Committees on the Judiciary as to the success and effectiveness of the SJI.

Furthermore, the authorization of the Institute to procure goods and services from the General Services Administration (GSA) will be a boon to those administrative areas that are antiquated and non-functioning for want of new equipment and resources. Should this bill pass, I would look forward to conducting a full assessment of need in Houston and make these GSA resources available as soon as possible.

Therefore, Mr. Speaker, for the above reasons, I support H.R. 2714 and I urge my colleagues to do the same.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2714, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### COOPERATIVE RESEARCH AND TECHNOLOGY ENHANCEMENT (CREATE) ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2391) to amend title 35, United States Code, to promote research among universities, the public sector, and private enterprise, as amended.

The Clerk read as follows:

H.R. 2391

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Cooperative Research and Technology Enhancement (CREATE) Act of 2004".*

#### SEC. 2. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.

*Section 103(c) of title 35, United States Code, is amended to read as follows:*

*"(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.*

*"(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—*

*"(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;*

*"(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and*

*"(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.*

*"(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention."*

#### SEC. 3. EFFECTIVE DATE.

*(a) IN GENERAL.—The amendments made by this Act shall apply to any patent granted on or after the date of the enactment of this Act.*

*(b) SPECIAL RULE.—The amendments made by this Act shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2391, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2391 will help spur the development of new technologies by making it easier for collaborative inventors who represent more than one organization to obtain the protection of the U.S. patent system for their inventions.

The bill achieves this goal by limiting the circumstances in which confidential information which is voluntarily exchanged by individual research team members may be asserted to bar the patenting of the team's new inventions.

Today, intellectual property-reliant industries, such as pharmaceuticals, biotechnology and nanotechnology, serve as key catalysts to the U.S. economy, employing tens of thousands of Americans. More often than not, the innovations they develop are not done solely by researchers in-house, but rather, in concert with other researchers who may be located at universities, nonprofit institutions, and other private enterprises.

Carl E. Gulbrandsen, the managing director of the Wisconsin Research Alumni Research Foundation, provided

an assessment of the value of university research contributions when he testified before the Subcommittee on Intellectual Property last Congress that, "In 2000, nonprofits and universities spent a record of \$28.1 billion on research and development, much of which involved collaborations among private, public, and nonprofit entities."

Sales of products developed from inventions transferred from those research centers resulted in revenues that approached \$42 billion that year, a portion of which was then reinvested into additional research. As significant as this research activity is, the tangible benefits of its application are also worth noting. Inventions such as the MRI and the sequencing of human genome technology were both made possible through collaborative research.

In 1984, Congress acted to incentivize innovation by encouraging researchers within organizations to share information. That year, Congress amended the patent law to restrict the use of background scientific or technical information shared among researchers in an effort to deny a patent in instances where the subject matter and the claimed invention were under common ownership or control.

This bill will provide a similar statutory "safe harbor" for inventions that result from collaborative activities of private, public and nonprofit entities. In doing so, the bill responds to the 1997 *OddzON Products, Inc. v. Just Toys, Inc.*, decision of the Federal Circuit Court of Appeals by clarifying that prior inventions of team members will not serve as an absolute bar of the patenting of the team's new invention when the parties conduct themselves in accordance with the terms of the bill.

In the future, research collaborations between academia and industry will be even more critical to the efforts of U.S. industry to maintain our technological preeminence. By enacting this bill, Congress will help foster improved communication between researchers, provide additional certainty and structure for those who engage in collaborative research, reduce patent litigation incentives, and facilitate innovation and investment.

Mr. Speaker, the Committee on the Judiciary unanimously approved H.R. 2391 on January 21, 2004. I understand that the Congressional Budget Office considers the bill to have an insignificant effect on the U.S. Patent and Trademark Office's spending, and has found that the bill contains no inter-governmental or private sector mandates.

The bill itself is a product of the collaborative efforts of a number of individuals and leading professional patent and research organizations. Among those who contributed substantially to the development of the bill are the USPTO, the Wisconsin Alumni Research Foundation, the American Council on Education, the American University Technology Managers, the Biotechnology Industry Organization,

and the American Intellectual Property Law Association.

Mr. Speaker, the bill is necessary to ensure that tomorrow's collaborative researchers enjoy a full measure of the benefits of the patent law. I urge Members to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2391, the CREATE Act, and ask my colleagues to support it as well. The CREATE Act is a rare legislative achievement: It is a truly noncontroversial patent bill. It has achieved this unique status because it is the product of exhaustive discussion, negotiation, and redrafting at both the intellectual property subcommittee and the full Committee on the Judiciary levels.

The CREATE Act effectively overturns the Federal court's decision in *OddzON Products v. Just Toys*. The *OddzON* decision held that certain prior art can be used to dismiss a patent application as obvious, one cannot patent the obvious, even if that prior art was confidential, shared among consenting parties or undocumented.

In layman's terms, the *OddzON* decision means that research collaborations between different institutions may preclude patents arising from that joint research. As a result of its holding, the *OddzON* decision threatens to chill informal inter-institutional research collaborations. These are just the sort of research collaborations that are increasingly important in today's complex resource constrained research environment. Even more troubling, these sorts of research collaborations disproportionately involve research universities and nonprofit institutions which do not have the same flexibility as private institutions to engage in other research arrangements.

Research collaborations contribute greatly to the U.S. economy. More importantly, they may be the key to curing many life-threatening diseases. Research collaborations are an important part of the technology transfer between universities, nonprofit institutions, and private companies that result in an estimated \$40 billion of economic activity each year and support some 270,000 jobs.

Similarly collaborations between Federal laboratories and other entities have resulted in an estimated 5,000 research agreements signed since 1986.

There is no question that Congress should foster an environment in which researchers have the freedom, opportunity and incentive to collaboratively develop inventions and new ideas. By overturning the *OddzON* decision, the CREATE Act will remove a substantial roadblock to achieving this goal.

The CREATE Act underwent substantial revisions to adjust relevant concerns. The version before us today constitutes a real improvement over H.R. 2391 as introduced. It has the support of the university community, the patent

bar, the biotech industry, patent holders, and all other interested parties of which I am aware, and I want to express my appreciation to the gentleman from Texas (Chairman SMITH) for working so closely with us in drafting and redrafting the CREATE Act. I ask my colleagues to vote in favor of this important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, the CREATE Act, which I introduced along with the gentleman from California (Mr. BERMAN), allows researchers and inventors who work for different organizations and collaborate on inventions to share information without losing the ability to file for a patent.

This legislation removes roadblocks to the patenting of collaborative inventions. It empowers researchers to choose to collaborate when it is in their interest, and to compete for inventions when it is not.

Under current law, individuals who did not work on an invention or project can challenge patent applications. This leads to invalidated patents which harms our economy and the inventors, researchers and entrepreneurs who want to create new products.

Today's biotech, pharmaceutical, and nanotechnology companies conduct much of their research with partners such as universities and other public or private organizations.

In fact, the University of Texas ranks fourth on the list of universities that receive the most patents. Many of these patents result from working with the private sector on research.

America's universities, private companies, public organizations and nonprofit institutions all have a stake in ensuring the U.S. patent system rewards rather than inhibits their innovations, from life-saving therapies to fuel cells.

Yesterday, my subcommittee received a letter from the Biotechnology Industry Organization, which supports this legislation. The organization stated, "The majority of our members routinely engage in collaborative research. We believe that encouraging this type of research will greatly enhance the ability of the biotechnology industry to develop life-saving and life-enhancing products."

The CREATE Act: (1) Promotes communication among team researchers located at multiple organizations; (2) discourages those who would use the discovery process to impede coinventors who voluntarily collaborated on research resulting in patentable inventions; (3) increases public knowledge; and (4) accelerates the commercial availability of new inventions.

The CREATE Act benefits all industries that engage in collaborative and cooperative research involving more

than one organization. The classic example is biotechnology, since it has a culture and a business model that is multi-disciplinary.

When a biotechnology company decides to partner with a university, we want to prevent that partnership from being harassed by a third party. Biotech investment dollars dedicated to research should and must be used in an effective way without the possibility of a lawsuit or a grievance filed against it.

The CREATE Act was inspired by two principles essential to a democracy: The protection of intellectual property rights and the freedom to exchange goods and services.

Research collaborations are essential to the discovery of new inventions, the creation of new jobs, and the health of the U.S. economy. Protecting them will provide greater incentives to develop new technologies.

Mr. BERMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, cooperative research among private, public, and nonprofit entities has become a common feature of modern research and development. Many technology start-ups in my home in Silicon Valley rely on university-based researchers to support their basic R&D programs, and the result of these collaborations benefit both the economy and consumers.

However, as has been mentioned by other Members, since the Federal Circuit decision in *OddzON Products v. Just Toys*, collaboration has become too risky. The *OddzON* decision created an environment where an otherwise patentable invention can be rendered nonpatentable on the basis of information routinely exchanged between research partners.

Collaborative research is absolutely vital to our economy. A 1988 report by the National Science Foundation found that nonprofits and universities spent a record \$23.8 billion on research and development, the majority of which came from collaborations. Congress needs to act to ensure that our patent laws provide the proper incentives for private, public, and nonprofit entities to work together to make all our futures brighter, and I am happy to say that the CREATE Act that is before us today does that.

Mr. Speaker, I would like to thank the gentleman from Texas (Mr. SMITH) and the gentleman from California (Mr. BERMAN), the ranking member, for their hard work on this bill. I support it, and I urge all Members to support it as well.

□ 1215

We often come on the House floor and engage in debates on things that divide us which, when all is said and done, will not necessarily be very important to the American economy or the American public.

This is an item that may be a little bit of a sleeper. I do not see a cast of

thousands here on the House floor, and yet passing this bill will be very important for the economy of our Nation and for the advance of science, and it is something we can do together proudly and serve our country quite well. I am happy to be involved in this effort.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2391, the Cooperative Research and Technology Enhancement (CREATE) Act introduced on June 9, 2003. We held a markup hearing for this legislation in January of this year, and I offered my support at that time. To spur innovation and accelerate new technologies, this bill encourages cooperative research efforts that involve the private sector, universities, non-profit institutions and public entities. In a recent decision (*Oddzon Products, Inc., v. Just Toys, Inc., et al.*, 122 F.3d 1396, 43 U.S.P.Q.2d 1641 (Fed. Cir. 1997), or *Oddzon*), the Federal Circuit Court of Appeals narrowed the scope of a 1984 law that promoted collaborative research. I support H.R. 2391 because it will only result in the overall improvement of the quality of research that is done by collaborating members of the academic community in the areas of science, art and information resourcing.

In *Oddzon*, the Federal Circuit found that in the case of an inventive collaboration involving researchers from multiple organization, the novelty (§ 102) and non-obvious (§ 103) requirements of the Patent Act could be read to cover prior art so as to invalidate a patent. The court wrote:

The statutory language provides a clear statement that subject matter that qualifies as prior art under subsection (f) or (g) cannot be combined with other prior art to render a claimed invention obvious and hence inpatentable when the relevant prior art is commonly owned with the claimed invention at the time the invention was made. While the statute does not expressly state . . . that § 102(f) creates a type of prior art for purposes of § 103, nonetheless that conclusion is inescapable; the language that states that § 102(f) subject matter is not prior art under limited circumstances clearly implies that it is prior art otherwise.

In making this ruling, the court states "[t]here is no clearly apparent purpose in Congress's inclusion of § 102(f) in the amendment other than an attempt to ameliorate the problems of patenting the results of team research." Finally, the court added "while there is a basis for an opposite conclusion, principally based on the fact that § 102(f) does not refer to public activity, as do the other provisions that clearly define prior art, nonetheless we cannot escape the import of the 1984 amendment." The holding creates a significant problem due to the way that most public-private sector research and development projects are structured. Since the early 1980s, universities, States and the Federal Government have become much more adept at generating licensing revenue from intellectual property developed by their faculty, staff and students. Many States and the Federal Government now operate under laws and practices under which they cannot or will not assign their rights to inventions to a private-sector collaborative partner. Typically, the university, State or Federal Government retains sole ownership of the invention, while the invention is licensed for commercial exploitation to their research partner.

The *Oddzon* decision has created a situation where an otherwise patentable invention may be rendered nonpatentable on the basis of information routinely exchanged between research partners. Thus, parties who enter into a clearly defined and structured research relationship, but who do not or cannot elect to define a common ownership interest in or a common assignment of the inventions they jointly develop, can create obstacles to obtaining patent protection by simply exchanging information among them. There is no requirement that the information be publicly disclosed or commonly known; all that is required is that the collaborators exchange the information.

The CREATE Act's purposes are to promote communication among team researchers from multiple organizations, to discourage those who would use the discovery process to harass co-inventors who voluntarily collaborated on research, to increase public knowledge and to accelerate the commercial availability of new inventions. Overall, this bill will serve to create a more technology-friendly environment and encourage continued collaboration and innovation.

Mr. Speaker, I support this bill and hope that my colleagues will do the same.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2391, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises."

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 339.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

#### PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

The SPEAKER pro tempore (Mr. SMITH of Texas). Pursuant to House Resolution 552 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 339.

□ 1223

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole

House on the State of the Union for the consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, with Mr. CULBERSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the food industry is our Nation's largest private sector employer, providing jobs to some 12 million Americans. Today, that industry is threatened by an array of legal claims alleging that it should be liable to pay damages for the overconsumption of its legal products by others. H.R. 339, the Personal Responsibility in Food Consumption Act, is designed to foreclose frivolous obesity-related lawsuits against the food industry.

From June 20 to the 22nd of last year, personal injury lawyers from across the country gathered at a conference designed to "encourage and support litigation against the food industry." Attendees were required to sign an affidavit in which they agreed to keep the information they learned confidential and to refrain from consulting with or working for the food industry before December 31, 2006, apparently setting a deadline for bringing that vital industry to its knees in a nationally coordinated legal attack.

The hatred of some lawyers for the food industry is stark. Ralph Nader, for example, has compared food companies to terrorists, saying that the double cheeseburger is "a weapon of mass destruction."

H.R. 339 prohibits obesity or weight-gain-related claims against the food industry, with reasonable exceptions, including those in which a State or Federal law was broken and as a result the person gained weight, and those in which a company violates an expressed contract or warranty. Also, because this bill only applies to claims based on "weight gain" or "obesity," lawsuits could go forward under the bill, if, for example, someone gets sick from a tainted hamburger.

The bill also contains essential provisions governing the conduct of legal proceedings. H.R. 339 includes the very same discovery provisions designed to prevent fishing expeditions that are already a part of our Federal securities laws. It also contains provisions that appropriately require that a complaint set out the fact as to why the case should be allowed to proceed.

Some trial lawyers are mounting an attack on personal responsibility

against the advice of the Nation's leading weight-loss experts. Listen to the insightful words of Dr. Gerard Musante, a clinical psychologist with training at Duke University Medical Center, who has worked for more than 30 years with thousands of obese patients. He is the founder of Structure House, a residential weight-loss facility in Durham, North Carolina. Dr. Musante said the following at a Senate hearing on this legislation:

"Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction."

The chairman of the American Council for Fitness and Nutrition, Susan Finn, has also written that "if you are obese, you don't need a lawyer; you need to see your doctor, a nutritionist and a physical trainer. Playing the courtroom blame game won't make anyone thinner or healthier."

Even the Los Angeles Times, which rarely agrees with people on this side of the aisle, has editorialized against such lawsuits, stating, "People shouldn't get stuffed, but this line of litigation should."

On the other hand, the lobbying organization for personal injury attorneys, the Association of Trial Lawyers of America, which opposes this legislation, has published a litigation instruction manual that openly belittles jurors who believe in "personal responsibility." According to that instruction manual, "Often a juror with a high need for personal responsibility fixates on the responsibility of the plaintiff. According to these jurors, a plaintiff must be accountable for his or her own conduct. The personal responsibility jurors tend to espouse traditional family values. Often these jurors have strong religious beliefs. The only solution is to identify these jurors and exclude them from the jury."

Besides threatening to erode values of personal responsibility, the legal campaign against the food industry threatens the separation of powers.

□ 1230

Nationally coordinated lawsuits seek to accomplish through litigation that which has not been achieved by legislation and the democratic process. As one mastermind behind lawsuits against the food industry has stated, "If the legislatures won't legislate, then the trial lawyers will litigate." In order to preserve the separation of powers and support the principle of personal responsibility and to protect the largest private sector employer of the United States, let us pass H.R. 339.

Mr. Chairman, at this time, I will insert in the RECORD jurisdictional letters the gentleman from Texas (Chairman BARTON) and I have exchanged regarding this legislation.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, March 4, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,  
Chairman, Committee on the Judiciary, House  
of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On January 28, 2004, the Committee on the Judiciary ordered reported H.R. 339, the Personal Responsibility in Food Consumption Act. As ordered reported by your Committee, this legislation contains a number of provisions that could fall within the jurisdiction of the Committee on Energy and Commerce.

Specifically, I believe that H.R. 339 would impose a new scienter requirement with respect to certain enforcement actions taken by agencies and statutes within our jurisdiction. This requirement could fundamentally alter how agencies, such as the Federal Trade Commission and the Food and Drug Administration, enforce violations of laws they administer.

Recognizing your interest in bringing this legislation before the House expeditiously, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill. In exchange, you have agreed to eliminate our jurisdictional concerns with a floor amendment that expressly eliminates lawsuits brought under the Federal Trade Commission Act and the Federal Food, Drug, and Cosmetic Act from the definition of "qualified civil liability action" under the legislation.

By agreeing not to seek a sequential referral, the Committee on Energy and Commerce does not waive its jurisdiction over the bill as your committee ordered it reported. In addition, the Committee on Energy and Commerce reserves its right to seek conferees on any provisions within its jurisdiction which are considered in any House-Senate conference.

I request that you include this letter and your response as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

JOE BARTON,  
Chairman.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, March 5, 2004.

Hon. JOE BARTON,  
Chairman, Committee on Energy and Commerce,  
U.S. House of Representatives, Washington,  
DC 20515

DEAR CHAIRMAN BARTON: Thank you for your letter regarding H.R. 339, the "Personal Responsibility in Food Consumption Act." I appreciate your willingness not to seek a sequential referral of the bill.

I strongly disagree with your assertion of jurisdiction over the bill. I do not believe that H.R. 339, as reported, contains provisions that affect lawsuits by the Federal Trade Commission or the Food and Drug Administration, and the drafters did not intend such suits. Nor do I agree with the description of the bill in the second paragraph of your letter. However, I will include language (a copy of which is attached) in a manager's amendment on the floor to make it clear that such suits are not precluded or otherwise affected by the bill. I will also include language our staffs have discussed in the Committee's report (a copy of which is attached) to further clarify this point.

By agreeing to this resolution of this matter, the Committee on the Judiciary does not

acknowledge that the Committee on Energy and Commerce had jurisdiction over provisions of the bill. In addition, the Committee on the Judiciary does not waive any of its jurisdictional claims in these matters.

I will include your letter and this response in the Committee's report on H.R. 339 and in the Congressional Record during the consideration of this bill in the House. I appreciate your cooperation in this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,  
Chairman.

#### AMENDMENT LANGUAGE

Strike the current §4(5)(C) (the language that excludes suits relating to adulterated foods) and insert:

"(C) Such term shall not be construed to include an action brought under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)."

#### REPORT LANGUAGE

After the Committee on the Judiciary's markup of H.R. 339, the Committee on Energy and Commerce expressed concerns that the definition of "qualified civil liability action" might be construed to include actions under the Federal Trade Commission Act or actions under the Federal Food, Drug, and Cosmetic Act. The Committee on the Judiciary did not intend to include such actions in the definition and did not believe that the actions were included within its clear terms. Notwithstanding that, both Committees agree on the policy that such actions should not be precluded by H.R. 339. To make this policy agreement abundantly clear, a manager's amendment to be offered during floor consideration of H.R. 339 will strike the current language in §4(5)(C) excluding adulteration suits and replace it with language stating explicitly that the definition shall not be construed to include actions under the Federal Trade Commission Act or the Federal Food, Drug, and Cosmetic Act. The Committee on the Judiciary believes that this language will resolve the practical concerns of the Committee on Energy and Commerce.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I ask unanimous consent to substitute myself for the gentleman from Virginia (Mr. SCOTT) and control the time in opposition to the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

I want to start by putting a couple of things in perspective. First of all, I agree with a lot of what the gentleman from Wisconsin (Chairman SENSENBRENNER) has said about personal responsibility, so I want to go on record as saying that. I personally like fast food on some occasions, but I also take personal responsibility for my own fitness. So I am not here about personal responsibility. People do have personal responsibility. Let me put that on record.

I am here as the ranking member of the Subcommittee on Commercial and Administrative Law, a subcommittee of the Committee on the Judiciary and, for that reason, I have the responsibility to control the disposition of time on this bill. And because I am standing

in the middle of it, I suspect there will be a number of things said that I need to clarify in advance to position myself.

First of all, I suspect that my colleagues are going to hear that I am somehow a defender of fat, irresponsible people today. I suspect that at some time during the course of this debate, I am going to be characterized as the defender of irresponsible litigation. I suspect at some point during the course of this debate today I am going to be characterized as the defender of trial lawyers, the hated trial lawyers that many of my Republican colleagues just despise so much.

Let me make it clear at the outset of this debate that I am not here as any of those things. I personally do not think much of these kinds of lawsuits, and I want to go on record as saying that. But that is not the criteria in which I can evaluate this proposed legislation.

As a member of the Committee on the Judiciary, I have some other responsibilities. I have a responsibility to defend the federalist system that has been set up under which we operate and which is a constitutional framework over which States and local governments have certain responsibilities and over which the Federal Government has certain responsibilities. And too often, what we hear in this body is lip service to that federalist system and lip service to the proposition that people support States' rights and, yet, when the rubber meets the road, they walk away from any commitment to it. I think that is what is happening with this legislation that we are debating today, because this has been an area that has been uniquely within the province of States and State judiciaries and State legislatures.

I also want to warn us against this notion that somehow or another, our court system is run amok and that we should take responsibility as Members of Congress in trying to correct every aspect of our court system. Now, I want to tell my colleagues, I suspect that if there was anybody here who ought to be suspicious and concerned about State courts and State courts running amok, it would be me. I grew up in the era of the civil rights movement, and many of the State court judges during that era were not especially sensitive to people who looked like me and had the racial characteristics that I do. But one of the things that I learned during that process is that I do not always like the result that a court comes out with, but the system of justice and judicial responsibility and the division of responsibilities between the legislative branch and the judicial branch, between the Federal, State, and local governments is a pristine, wonderful system that we should honor, and sometimes we have to be patient and let this work itself out in a way over time, and that is exactly what has happened in this case. From the dropping of this bill to the time that we have come to the floor to

debate it today, every single lawsuit that has been filed dealing with this issue, every single lawsuit has been dismissed by the courts.

So when I say this is a solution in search of a problem, understand that there is no problem out there. The court system has already addressed this perceived problem that we have. This, I say to my colleagues, is an effort to take this politicized notion of personal responsibility and try to rub people's faces in it without regard to the federalist system in which we are operating.

This bill would insulate an entire industry from liability and would undermine and insult, insult our State judiciaries in the various States around the country, and the State legislatures and the whole concept of Federalism. The growing trend in this body to attempt to preempt by legislation litigation that is deemed "undesirable" or "frivolous" is very troublesome. It gets us to a legislation by anecdote, a legislation by result, rather than any kind of honoring of the process that we should be working within.

I believe it is arrogant and disrespectful of our system of government. This bill and others like it presume that State courts, State legislatures, and the citizens of the States themselves are woefully incompetent to address burdens on their systems of government and that, somehow, we, as Members of Congress, have some great intellectual capacity and responsibility up here to control everything that exists in our country. It is a wrong-headed approach that we have set upon.

There is absolutely no evidence in support of the proposition that our States cannot handle these matters. The details of this bill drafted in haste will be aptly debated throughout the amendment process. But my major concern, and one that I will reflect in the amendments to the bill that I offer, is what we should be doing as national policymakers. I do not believe that overreacting to every headline constitutes responsible legislating. I hope that this body will get back to the business of evaluating the serious problems confronting the American people and developing some solutions to those problems: employment, the economy, deficits, war. And this bill does not do that. Simply put, as I indicated before, this is a solution in search of a problem, and it would not even be on the floor, I think, today if we were dealing with some of the problems that we really ought to be confronting.

Mr. Chairman, with that, having set the framework, I will reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. KELLER), the author of the bill.

Mr. KELLER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the food industry is the largest private sector employer in

the United States, providing jobs for 12 million American citizens. The consequences of these obesity lawsuits against the food industry is that consumers will pay a higher price for food in restaurants. Mom and pop restaurants would face unaffordable insurance rate hikes, and jobs could be cut as a result.

This legislation, in essence, provides that a seller or maker of a lawful food product shall not be subject to civil liability where the claim is premised upon an individual's weight gain relating to the consumption of that food. This is a narrowly-drawn, measured piece of legislation. It does not immunize the food industry. This legislation does not preclude suits from false advertising, mislabeling of food, adulterated foods, or injuries from eating tainted food. The gist of this legislation is that there should be common sense in the food court, not blaming other people in the legal court.

Most people have enough common sense to realize that if they eat an unlimited amount of french fries, milk shakes, and cheeseburgers without exercising, it can possibly lead to obesity. But in a country like the United States where freedom of choice is cherished, nobody is forced to supersize their fast food meals or to choose less healthy options on the menu. Similarly, no one is forced to sit in front of their TV all day and play video games, instead of walking or bike riding.

Richard Simmons, the famous exercise guru, recently said that people who bring these lawsuits against the food industry do not need a lawyer, they need a psychiatrist, and the American public seems to agree. In a recent objective Gallup poll, nearly nine out of 10 Americans, 89 percent, oppose holding the fast food industry legally responsible for the diet-related health problems of people who eat that kind of food. Interestingly, overweight people agreed with skinny people that the fast food industry should not be held responsible for these types of claims.

Which brings me to the subject of lawyers. And, while we are here, some of the same lawyers who went after the tobacco industry now have a goal of suing the food industry for \$117 billion, which is the amount the Surgeon General estimates as the public health costs attributable to being overweight.

Now, based on a standard contingency fee of 40 percent, that means these selfless lawyers interested in public good would be recovering \$47 billion for themselves in attorneys' fees, and that is, ultimately, what this is about. In fact, in June of 2003, lawyers from all across the United States gathered in Boston for what they called the first annual conference on legal approaches to the obesity epidemic. To attend each work shop, the people had to sign an affidavit to attend the legal work shop in which it said, "This is intended to encourage and support litigation against the food industry."

One of the ringleaders of this litigation conference is a lawyer named John Banzhaf. Mr. Banzhaf freely admits that his goal is to open the floodgates of litigation against our Nation's largest private sector employer: the food industry.

□ 1245

Specifically, Mr. Banzhaf said this: "Somewhere there is going to be a judge and a jury that will buy this. And once we get the first verdict, as we did with tobacco, it will open the flood gates."

Now, the Democrats could have called anybody they wanted to. We had a hearing on this. But they chose to call this man who says it will open the flood gates. He wants to open the flood gates. That is what they said then. Then they come here today and it is, What do you mean? There is no intent to sue the food industry. Well, indeed, lawsuits have been filed against McDonald's, Burger King, Wendy's, KFC, Kraft/Nabisco with new suits now threatened by Mr. Banzhaf and others against the makers of ice cream.

The New York suits included one with a man named Caesar Barber, who went on "60 Minutes" and told them, "I want compensation for pain and suffering." "60 Minutes" said, "How much money do you want?" Caesar Barber: "Maybe \$1 million. That is not a lot of money right now."

We must think of what this is about. The litigation against the food industry is not going to make a single person any skinnier; it is only going to serve to make the trial attorneys' bank accounts a lot fatter.

In summary, we need to make it tougher for lawyers to file frivolous lawsuits. We need to care about each other more and sue each other less. We need to get back to the old-fashioned principles of common sense, of personal responsibility and get away from this new culture where everybody plays the victim and sues others for their problem.

This legislation is a step in the right direction. I urge my colleagues to vote "yes" on H.R. 339.

Mr. WATT. Mr. Chairman, I yield myself 1 minute simply to respond to the prior speaker.

Here we go, exactly what I said was about to happen is happening. 89 percent of the public support does not support these kinds of lawsuits, but that does not mean that we need a Federal statute to deal with this issue. In fact, it probably means exactly the opposite of that.

Second, there have been a number of suits filed and every single one of them has been dismissed up to this point. So the process is working. And you are already beginning to see that this is really about having this opportunity in an official context to beat up on trial lawyers. We ought to be trying to do some serious legislating rather than just politicking with this bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia, Mr. SCOTT.

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding.

Whatever the merits of the lawsuits which provoke this legislation are, we ought to focus on the fact that lawsuits ought to be tried in court, where evidence can be heard and objective law applied.

Today, we are allowing one industry to have the privilege of trying its lawsuit with politicians who will take politics and polls into consideration instead of being treated the same as other citizens who have to try their cases in court. If the case on behalf of the food industry is strong, then courts will know what to do; they can dismiss the cases.

Furthermore, if based on the evidence and the law the court finds that the law suit is frivolous, the court may assess sanctions against the plaintiffs and lawyers who file the suits. In fact, it is my understanding that all of the lawsuits have in fact been dismissed. So what is wrong with the food industry being treated the same as other industries when it comes to courts deciding whether or not there is responsibility for injuries to others? And what is wrong with trying cases in court with unbiased judges and juries hearing both sides of the case according to rules which allow both sides to produce all relevant witnesses who will be heard and cross-examined?

This process is in stark contrast to the congressional procedure where committee chairmen invite the witnesses they want and cross-examination of witnesses is severely constrained both in time and by the fact that the interested parties are not able to cross-examine anyone.

Mr. Chairman, in a democracy it is fundamentally wrong for some industries to have the privilege of trying their cases in a forum where their political allies will decide the merits of the case while everyone else is relegated to the court system where evidence is heard and the law applied by judges and juries without political considerations. This bill sets a bad precedent. I therefore hope my colleagues will oppose this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Chairman, on Saturday I handed out awards to some 4,600 kids that participated with me in the Cowtown 5-K running race the weekend before. I was happy to promote an activity that gets kids moving. And I think that getting young people in events like the Cowtown race is a much better way to combat obesity than targeting fast-food restaurants with frivolous lawsuits.

The question before this body today is simply, Should it be just as easy to file a lawsuit against a restaurant for causing obesity as it is to drive through the nearest take-out window for a quick burger and fries? The answer is no.

The issue before us is responsibility, individual and personal responsibility for how we eat and how we exercise. We all know the statistics: two-thirds of Americans are overweight; 15 percent of our children are too heavy; obesity rates among teenagers have tripled in the last 20 years. Blaming the fast-food industry is not the answer to reducing obesity in America.

Americans can sue the McDonald'ses and Burger Kings of the world until these establishments can pay no more, but not one American will lose weight until they eat better and exercise more frequently.

I support this legislation because I do not want Americans to have a crutch for their overweight problem: restaurants and the fast-food industry. Instead, I want to provide Americans a better way, a healthy life-style.

If we really want to address the obesity epidemic, we must focus on educating youngsters about the dangers of being overweight and how eating the wrong foods only packs the pounds on. You could utilize programs such as the CDC's Youth Media Campaign, otherwise known as the VERB program.

VERB is a proven program that encourages kids to get out and walk, bike, run, jog, play basketball, baseball, skateboard, anything but just sitting in the house and watching television.

The net result of lawsuits that blame the fast-food industry for our overweight problems will be higher prices and lost jobs, not healthier Americans. Eating right and increasing physical activity is the answer to a slimmer, trimmer, fitter America, not lawsuits.

Mr. WATT. Mr. Chairman, I yield 5 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman from North Carolina (Mr. WATT), the subcommittee chair, for yielding and for his very sensible approach to this issue.

I do not know if my good friends on the other side of the aisle are trying to change their political identity, but I thought they stood for federalism and local control. They are, however, developing a pattern of coming to the floor in response to interest groups to knock out lawsuits even when they are winning in the courts. What a waste of time.

Fast-food suits can hardly be the American answer to obesity, a public health problem; but they may be part of a revolution that is occurring in the fast-food industry. And I say to the fast-food industry, keep bringing on those changes at McDonald's and all the rest of these fast-food places that are hearing us one way or the other.

We all believe you have to take responsibility for what goes into your own mouth. I come to the floor because I think there is a great audacity in coming to the floor, as the other side is, to talk about personal responsibility when we are talking about a public health problem for which our government has not taken responsibility.

I worked with Chairman Porter, who, a couple years ago, retired from the House, on an appropriation that started at \$125 million. He started with children. I had a bill called Lifetime Improvement in Food and Exercise, LIFE; and we joined forces. He came to the Congress to a reception just to press the notion once again last year.

Secretary Thompson had the audacity to go on television yesterday talking about some penny ante things that the administration is going to do. After having reduced this amount from \$125 million this year to \$5 million, they tried in the last 2 years to get it to zero. This is money that was going into reducing obesity among children.

In today's Washington Times, the front page says, and I quote, "Inactive Americans are Eating Themselves to Death at an Alarming Rate. Their unhealthy habits are approaching tobacco as the top underlying preventable cause of death, a government study found."

What is the government going to do about its government study? I hope it does more than stop the trial litigation in the States, obviously not the answer to this problem when 60 percent of our people are overweight or obese.

An ad campaign as described by the Secretary himself consists of humor when they say you should get off your duff and walk your children around the block. Mr. Chairman, this is far more serious than that. This is the major health problem second only to smoking.

I am grateful to the Committee on Appropriations that instead of zeroing out public health money for the last 2 years, the appropriation has put in money. We are going to be trying to get money again this year so we do more than talk about obesity or try to stop litigation.

When you look at the amount of money that we have put into this problem ourselves, we started with a good Republican Chair of the HHS subcommittee, starting at \$125 million. Then he retires and the administration, his administration tries to zero it out.

This Congress says, no, we will not put 125. If the President wants it gone, we will put 68, then the third year 51, last year \$35.8 million. Well, we are going down, not up; but people rush to the floor, the Committee on the Judiciary regards it as a priority to stop some lawsuits that are stopping themselves. That is my concern.

My bill, Lifetime Improvement in Food and Exercise, which I joined with Chairman Porter in producing this first, first significant public health money, is now being eroded by the administration. And I now find myself with only \$5 million in the administration's budget this time rather than zero; \$5 million reduced from \$125 million means they want public health money to combat obesity gone.

I am going to ask the Members of this House to help me in restoring

money to face this public health problem so that people who are bringing lawsuits out there know that we can do more than try to knock out lawsuits that are knocking themselves out, but that we are taking public health responsibility for a public health crisis, just as we expect them to take personal responsibility for what they eat every day.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members, I would just reiterate a couple of points. It strikes me that given what has transpired since this bill was introduced, even if it was originally a good idea and even if you accepted the notion that State courts were going to be irresponsible and not do what they are supposed to be doing, now that we have seen the passage of time and had the proof that State courts will dismiss these lawsuits, even if this bill was a good idea, it seems to me that we have proven with the passage of time that it is now definitely a solution in search of a problem. The lawsuits have been dismissed.

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So, in effect, the system has worked exactly like we would like it to work. That is the way our system is set up. If an individual believes that he has a cause of action and they believe that they have been wronged, or somebody has failed in meeting a standard that is applicable, they have the right to file a lawsuit, go to court, and have that court make a determination on their lawsuit. And that is exactly what has happened.

Now, quite often people make those judgments in different ways and you end up with lawsuits being filed that get dismissed. And that happens to probably well over 90 percent of the cases that get filed in court—they get dismissed before they come to trial.

Does that mean that they are all frivolous? Well, some of them probably are frivolous. And there are rules in place that allow the courts to sanction people and fine them and charge them attorneys fees of the opposing party when they file frivolous lawsuits. But people still file frivolous lawsuits, and those rules then are triggered and the courts handle that.

Does it mean that even the frivolous lawsuits should not have been dismissed? Well, there is another category of cases where there is not enough law to support filing a lawsuit. Whether you have a good lawsuit is a function of whether you have got the facts and a function of whether you have got the law on your side. But our system is set up to allow courts to make that determination, and I would submit that State courts have as much expertise, probably more expertise, in making these determinations than our Federal judiciary.

The next point I would draw from this is that as these lawsuits have been dismissed, it strikes me that it is less

and less and less likely that subsequent lawsuits will be filed because then you have got a backdrop against which people can go into court and say, well, this issue has been determined by a court adversely and so it should not be here. There is an increased possibility, probability that courts will find that subsequent lawsuits are frivolous in this area. But all of those things argue for our staying out of this and not building a whole new Federal framework for dealing with a problem that does not exist because our system is working.

Now, the next point I want to make that I have heard come out of this general debate up to this point is this job loss notion. I have heard some really interesting explanations by this administration about why we are losing jobs in this country. But this about takes all I have heard. Here we are now with some of my colleagues saying, well, if we allow these lawsuits to be filed against McDonalds or whatever the fast food chains are, we are going to result in job loss, and that is what is causing the big job loss in this country.

Give me a break. We ought to know better. And there are a bunch of reasons that I could go into about why we are losing jobs, but this would be about the 999,000th reason that I would get to before I would be identifying a source for job loss in this country. So we are kind of grasping at straws here, from my perspective, on that argument.

Finally, it amazes me how the same people who, over and over and over, had campaigned saying they believe in local control and States' rights. When they do not get the result that they want at the State level or even in this case when they do get the result that they want at the State level because all of these cases have been resolved adversely that have been filed, it is amazing to me why we think in our arrogance in this body that we ought to just take over because we do not like the result or we think State legislators are incompetent or local elected officials are incompetent, we ought to take it over at the Federal level and forget about the constitutional framework that we are operating in. And it is more inexcusable to me when these bills come out of the Committee on the Judiciary, where there should be the highest of respect for the constitutional parameters in which we operate.

This is not something that we should be doing from a number of different perspectives. And I just beg my colleagues, I guess it is a good debate. It is a good way to get us out here on the floor and take up some time when we really ought to be talking about the things that are really causing job loss. We are out here grasping at straws looking for some something to do today. Do we not have something else that we could be doing on the floor today that really honors our constitutional framework? Surely there must be something better.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have been listening to this debate since it began and until the gentleman from North Carolina (Mr. WATT) got up and brought in the whole subject of job loss, I did not hear anything about job loss at all.

Well, this bill is about preventing job loss because if a franchisee of a major national fast food chain ends up getting sued, he will be out of business, even if he wins his lawsuits because of all the legal fees and deposition fees and expert witness fees that he is going to have to pay.

So it seems to me that for once, Congress is getting ahead of the curve on this because we do have the evidence that a bunch of plaintiffs lawyers got together and they required everybody who went to this conference to sign an affidavit of confidentiality and a promise that they would not consult with or represent the food industry until the end of 2006.

Now, let us get back to what this bill consists of. This bill consists of imposing personal responsibility. And in my part of the general debate, I quoted Susan Finn, who is the head of the American Council on Fitness and Nutrition. She said, "If you are obese, do not get a lawyer. See your doctor. See a nutritionist and see a personal trainer, because you made yourself obese. It was not the system that did it or the local fast food chain that did it. You did it yourself."

And then I quoted the doctor who runs the residential facility in Durham, North Carolina, and he said, "The worst thing in the world you can do for an obese person is to give them a way out, to let them blame somebody else. They are going to have to look in the mirror if they want to get better and they want to prevent themselves from having all the health problems and lowered life expectancy as a result of eating too much and eating too much of bad stuff."

So, let us talk about saving jobs before they go. Let us talk about not giving people who are in denial a reason to get themselves off the hook. And let us talk about putting some sense in our legal system because it is not the food industry or those who sell a legal product that make people obese. It is people buying too much and consuming too much of that legal product. That is what this bill attempts to address and that is why it ought to pass.

Mr. CANTOR. Mr. Chairman, I rise today in support of legislation to end misguided obesity-related lawsuits. The Personal Responsibility in Food Consumption Act, H.R. 339, would take a strong step forward in accomplishing this goal. I strongly support this common sense legislation and believe it is time to end frivolous lawsuits against our nation's 878,000 restaurants and their 12 million employees.

In recent years, our nation's vast restaurant industry has come under attack from absurd obesity lawsuits. This litigation has bogged

down the judicial process and threatens small business owners. A recent poll shows that 89 percent of Americans believe that restaurants should not be held liable for an individual's obesity or weight gain. The National Restaurant Association believes lawsuits attacking food is not the answer to our nation's obesity problem. Emphasis must be placed on education, personal responsibility, moderation, and healthier lifestyles.

This legislation would prevent food companies from being held liable for the condition of obese and overweight consumers. Our public health would remain protected and any establishment distributing food that has a defect or that is improperly prepared will be held accountable.

Mr. Chairman, the time has come to end these lawsuits against our American restaurants and small business owners.

Mr. STARK. Mr. Chairman, I rise in opposition to the so-called Personal Responsibility in Food Consumption Act. This legislation is unnecessary. Lawsuits brought against fast food companies for allegedly causing obesity have been routinely thrown out. The fact is the law has worked in repelling bogus legal claims.

Yet, I suppose just like every other self-serving business lobby in Washington, the fast food industry wants the Republicans to protect them from being responsible. It's as if they're asking the GOP to "super size it" with a massively overreaching bill that grants fast food companies broad and unprecedented liability protection even in instances where they are clearly negligent.

Remember now that this legislation is an unnecessary response to a completely imagined problem. Consider then the impact it will have on ordinary Americans if they are injured by reckless behavior.

Well, to start with, this bill says that if a fast food chain is reckless and causes injury in a manner that is not already prohibited under state or federal law, they can't be held accountable. Second, if a fast food restaurant does break a state or federal law but says they didn't mean to do it, they get off just as easy.

This is a question of responsibility. I don't think most Americans believe anyone ought to get this kind of special treatment, especially when the result might well be more reckless and dangerous behavior.

Finally, let me just say that I find it interesting we would bring up the issue of obesity without a meaningful discussion of ways in which we can promote better health.

There is no discussion in this chamber today about making sure children are learning about and getting better nutrition. There is not a word mentioned about better food labeling so that Americans are better informed about the impact their choice of diet has on their health and longevity. We aren't talking about making sure the fast food industry fully discloses the health risks of high fat food that they have continually marketed and made easily accessible in every corner of this country.

I ask my colleagues to vote down this unneeded and potentially damaging legislation—it's a matter for the courts, not Congress. We ought to focus on bringing Americans to better health, rather than the healthy profits of the fast food industry.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I strongly oppose this bill. It is advertised

as a bill that stops frivolous lawsuits. Essentially, it really is frivolous legislation. Fast food lawsuits are extremely rare, and existing court procedures already weed most of them out before they get to trial. This is a manufactured issue, and this bill was created just to get a political score, catering to big corporations. The real problem is that to get that political score, this bill compromises the rights of states, denies citizens their right to be heard in a court of law, and impinges on the judiciary.

Furthermore, this bill will stifle a dialogue that is leading to better information and education about the health effects of various ingredients, and encouraging the food industry to develop more healthful products. This silly bill could cost lives.

Court procedures that have been carefully developed over the centuries already ensure that defendants are treated fairly. It is up to the courts to decide if a case is frivolous. Our legal system has multiple procedural safeguards to ensure defendants' rights. For example, judges monitor filings at every step, and can dismiss cases that lack merit at any time. Sufficient quality evidence must be present for any case to proceed. Attorneys can be punished and, in some cases, may be required to pay monetary penalties if they bring frivolous cases to court, or otherwise abuse the process. Also, the contingency fee system keeps attorneys from taking baseless cases. Usually, they only get paid if a judge or jury determines that the case was not frivolous.

However, just the threat of such cases has made our food supply safer and more healthful. Since the press coverage of obesity lawsuits began, fast food chains and junk food producers have taken more responsibility for their products. Consider the following developments: after publicity over a lawsuit against Kraft Foods regarding the dangerous trans-fat found in Oreo cookies, the FDA issued requirements that food labels reveal exact levels of the artery-clogger. According to the Associated Press; "the FDA has estimated that merely revealing trans-fat content on labels would save between 2,000 and 5,600 lives a year, as people either would choose healthier foods or manufacturers would change their recipes to leave out the damaging ingredient."

The New York Times has reported that Kraft and other major food companies, like McDonalds, Kellogg and PepsiCo, have promised to change how they produce foods and to take health concerns into greater consideration. The New York City public school system banned candy, soda and other sugary snacks from school vending machines to combat obesity among schoolchildren.

Although the most recent lawsuit against McDonalds was dismissed in September, it was still followed by a sudden wave of corporate responsibility. McDonalds will now offer a "Go Active Meal" for adults modeled after the children's Happy Meal. It will contain a healthy salad along with exercise tools. Burger King has joined the effort by creating low fat chicken baguettes for health conscious consumers, and Pizza Hut is offering the Fit 'N Delicious pizza that is only 150 calories per large pizza compared to the 450 calories in just one slice of its Stuffed Crust pizza.

I am against frivolous lawsuits, and hope the courts will continue to exercise restraint and control in protecting the defendants from

ridiculous claims. But the few suits that have come up have cost very little overall, and have started a public dialogue that has led to a new level of corporate responsibility and consumer awareness. We should not interfere with that dialogue.

In effort to lessen the frivolous nature of this bill, I offer two amendments and ask that my colleagues join me to save what promises to be an attempted legislative fix to a problem that has already been addressed in the courts. First of all, for the sake of clarification, this bill prohibits suits against food manufacturers, and relies on the definition of "food" under the Food, Drug and Cosmetic Act. In 1994, Congress passed the Dietary Supplement Health and Education Act to clarify that "a dietary supplement shall be deemed to be a food" for all purposes within the Food, Drug and Cosmetic Act (21 USC 301 (ff)). Because this bill relies on this definition of "food," it also applies to dietary supplements.

The first of these amendments, "MJ-004," will ensure that dietary supplement manufacturers don't get away with murder. This bill, as drafted, bans not only so-called "obesity-related suits," but any civil action that "relate[s] to . . . a person's consumption of a qualified product . . . and any health condition that is associated with a person's weight gain." Note that the person with the health condition does not have to be obese, they only have to have a health condition that obese people also have. Heart disease and kidney problems would be some of those diseases, for example. Hidden in this convoluted definition is the fact that this bill will shield the producers of dietary supplements from all liability. I offer this amendment to ensure that makers of these highly dangerous—and highly unregulated—drugs are held accountable for their actions.

Now that ephedra is gone, new diet drugs are already taking its place: bitter orange, aristolochic acid and usnic acid. All three have been associated with kidney and liver problems. While the FDA claims that it will look into the matter, we all saw what happened the last time the FDA began its cumbersome process. How many people will die this time? While the government works through its bureaucratic process, we have to let people have their day in court to stop these tragic events from happening again.

I offered an amendment, "WATT-019," in addition to "MJ-004." This amendment would prohibit the food industry—which enjoys broad immunity under this bill—from initiating lawsuits against any person for damages for other relief due to injury or potential injury based on a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

This amendment is necessary to insure that the public debate on the health and nutritious effects of mass marketed food products is not completely squelched by this bill.

In 1996, Oprah Winfrey was sued under my home state's "food disparagement" laws by the beef industry for comments she made following the first "Mad cow" scare this country witnessed. After years of litigation, transfer of her television show to Texas, and an expenditure of over \$1 million, Ms. Winfrey prevailed at trial and on appeal.

My amendment insures that what's good for the geese is good for the gander. Those advancing healthy diets by discouraging the con-

sumption of certain foods because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immunized from any accountability under this bill.

I will vote against this bill and urge my colleagues to do the same.

Mr. SHUSTER. Mr. Chairman, I rise today in support of H.R. 339, the Personal Responsibility in Food Consumption Act. This common sense legislation would prohibit lawsuits that claim a food manufacturer or seller is responsible for an individual's weight gain or obesity.

The food service industry is our nation's largest private sector employer, providing more than 12 million jobs in this country. Due to the industry's success of selling a legal product and meeting consumer demands, they have become the next target for the personal injury trial lawyers. If we do not pass this legislation, we will clear the way for the next free-for-all and litigation-lottery created to line the pockets of trial lawyers and send the message to Americans that they no longer have to be responsible for their actions. Make no mistake about it, this legislation is about personal responsibility. Each individual must be held accountable for their own personal choices and that includes the choices they make regarding what and how much they eat.

By supporting this legislation, we are not turning our backs on this country's problem with obesity but will in fact take one step closer in addressing the issue in a responsible and reasonable manner. As a nation, we must look for solutions to this public health problem. However, the solutions will not be found in the courtroom. Baseless and frivolous lawsuits are a misguided attempt to correct the poor eating habits of Americans and will not help a single individual in their struggle with obesity. The answers to our nation's struggle with weight and the associated health problems can be found by educating individuals about healthy lifestyle choices. It is doctors, nutritionists, and other health care providers that can offer help to overweight Americans—not personal injury lawyers. If lawsuits that blame the food industry for an individual's weight gain are allowed, we will simply make it easier for individuals to shift the blame to someone else. In a society that values choices and personal freedom, I believe we must take responsibility for our own choices in order to preserve them. We cannot stand by and let trial lawyers attempt to legislate through litigation. I urge my colleagues to vote for common sense and personal responsibility by supporting this important legislation.

Mr. BLUMENAUER. Mr. Chairman, if anyone needed an example of how Congress misses opportunities to make a difference, they need only to look at today's discussion of H.R. 339, a fast food tort reform bill. The very title invites parody. At a time when obesity is the fastest growing health care in America, affecting over one-third of American adults and touching almost every family, and when we have particular concern about an explosion of childhood obesity and related illnesses, there is good reason for Congress to become concerned.

Congress could make a real difference by providing reasonable diet standards including school lunch programs to help remedy this epidemic. Another step would be to have education reform and "leave no child behind," have a provision dealing with children's health.

Physical education is not a part of Congress' answer to school reform, and we find today that most of our children do not get regular physical activity as a daily part of the school curriculum. In our transportation bill we could provide major opportunities for safe routes to school so that our children could walk and bike to school on their own. These would be simple, commonsense, cost-effective steps to improve the health of our children and their families, while improving the environment and quality of life.

Instead of dealing substantively with the obesity problem, Congress in its wisdom has seen fit to continue selectively tinkering with the legal system by providing immunity from litigation. Never mind there has never been a jury verdict for a plaintiff in an obesity lawsuit. Corporations like McDonalds are well suited to take care of themselves, but the House leadership is taking a page out of their recent outrageous, unprecedented immunity for gun manufacturers. Not only is this legislation unneeded, but it would immunize defendants for negligent and reckless behavior including mislabeling of food products, something that I find impossible to explain to American consumers.

I find this trivializing a serious issue, undercutting fundamental legal protections, and providing a remedy for a problem that does not, at this point, appear to exist.

Mr. HAYES. Mr. Chairman, I rise today in support of H.R. 339—the Personal Responsibility in Food Consumption Act. This legislation will help to avoid frivolous lawsuits that will serve only to victimize innocent restaurants and make the American consumer pay a price. Frivolous lawsuits are driving up the cost of doing business in this country and it's costing us jobs. The simple fact is that responsibility for obesity here in America rests with the individual choices made by each citizen. And this legislation makes that clear.

Recently, an editor in my district made this point very clear. I would like to quote from his column, which ran in the Richmond County Daily Journal, which I believe represents the spirit of this important legislation.

McDonald's nor any of its comrades in the fast-food world, doesn't hold a gun to your head and force you to eat Supersize fries. You—and you alone—make that decision; McDonald's is simply following supply-and-demand protocol by offering Supersize fries.

The Big M in the Sky didn't make you obese; you did.

It is past time in this country for all individuals to take responsibility for the choices and freedoms available to us as Americans and cease passing the buck through frivolous lawsuits that blame others for our poor decisions.

I strongly urge my colleagues to support this legislation that will prevent lawsuits based on poor decision-making.

Mr. CONYERS. Mr. Chairman, I rise in strong opposition to this legislation which is both misleading and frivolous.

H.R. 339 goes much further than its stated purpose of banning the small handful of private suits brought against the food industry. It also bans suits for harm caused by dietary supplements and mislabeling which have nothing to do with excess food consumption, and would prevent state law enforcement officials from bringing legal actions to enforce their own consumer protection laws.

If you don't believe me, I implore you to read the bill. Section 4(5) would prevent any

legal action relating to “any health condition that is associated with a person’s weight gain or obesity” stemming from consumption of a “qualified food product,” which in turn is defined to include food and nutritional supplements. There is no requirement whatsoever that the person actually have gained weight as a result of consuming the product. As a result, the bill would prevent persons who develop heart disease and diabetes from dietary supplements such as Ephedra and Phen Phen from being able to obtain redress. Moreover, under the Manager’s amendment, private actions for harm caused by adulterated or poisoned products would also be limited.

Even worse, the bill bans these lawsuits on a retroactive basis, so it would throw out dozens of Ephedra and Phen Phen cases currently pending in court. This is a far cry from the concerns that led to this legislation.

H.R. 339 would also prevent state law enforcement officials from enforcing their own laws. Under section 4(3) the bill applies to legal actions brought by any “persons,” which in turn is defined to include any “governmental entity.” That means state attorneys general will be prevented from pursuing actions for deceptive practices and false advertising against the food industry. Again, this is a vast departure from most of the so-called tort reform bills considered by this Congress, which are drafted to apply to private lawsuits.

The legislation is frivolous because it deals with a non-existent problem. To date every single private lawsuit against the industry—a total of five—have been dismissed. The system is working fine, there is absolutely no crisis. Frivolous suits are thrown out of courts, and lawyers who bring them are subject to fines and other sanctions. It is absurd that this Congress would even consider eliminating liability when today’s Washington Post is reporting that obesity is passing smoking as the leading avoidable cause of death in our nation.

Lets not pass a bill which harms the victims of Ephedra and Phen Phen, or handcuffs our state attorneys general from protecting consumers.

I urge a “no” vote.

Mr. PAUL. Mr. Chairman, Congress is once again using abusive litigation at the state level as a justification nationalizing tort law. In this case, the Personal Responsibility in Food Consumption Act (H.R. 339) usurps state jurisdiction over lawsuits related to obesity against food manufacturers.

Of course, I share the outrage at the obesity lawsuits. The idea that a fast food restaurant should be held legally liable because some of its customers over indulged in the restaurants products, and thus are suffering from obesity-related health problems, is the latest blow to the ethos of personal responsibility that is fundamental in a free society. After all, McDonalds does not force anyone to eat at its restaurants. Whether to make Big Macs or salads the staple of one’s diet is totally up to the individual. Furthermore, it is common knowledge that a diet centering on super-sized cheeseburgers, french fries, and sugar-filled colas is not healthy. Therefore, there is no rational basis for these suits. Some proponents of lawsuits claim that the fast food industry is “preying” on children. But isn’t making sure that children limit their consumption of fast foods the responsibility of parents, not trial lawyers? Will trial lawyers next try to blame the manu-

factures of cars that go above 65 miles per hour for speeding tickets?

Congress bears some responsibility for the decline of personal responsibility that led to the obesity lawsuits. After all, Congress created the welfare state that popularized the notion that people should not bear the costs of their mistakes. Thanks to the welfare state, too many Americans believe they are entitled to pass the costs of their mistakes on to a third party—such as the taxpayers or a corporation with “deep pockets.”

While I oppose the idea of holding food manufacturers responsible for their customers’ misuse of their products, I cannot support addressing this problem by nationalizing tort law. It is long past time for Congress to recognize that not every problem requires a federal solution. This country’s founders recognized the genius of separating power among federal, state, and local governments as a means to maximize individual liberty and make government most responsive to those persons who might most responsibly influence it. This separation of powers strictly limits the role of the federal government in dealing with civil liability matters; and reserves jurisdiction over matters of civil tort, such as food related negligence suits, to the state legislatures.

Finally, Mr. Chairman, I would remind the food industry that using unconstitutional federal powers to restrict state lawsuits makes it more likely those same powers will be used to impose additional federal control over the food industry. Despite these lawsuits, the number one threat to business remains a federal government freed of its Constitutional restraints. After all, the federal government imposes numerous taxes and regulations on the food industry, often using the same phony “pro-consumer” justifications used by the trial lawyers. Furthermore, while small businesses, such as fast-food franchises, can move to another state to escape flawed state tax, regulatory, or legal policies, they cannot as easily escape destructive federal regulations. Unconstitutional expansions of federal power, no matter how just the cause may seem, are not in the interests of the food industry or of lovers of liberty.

In conclusion, while I share the concern over the lawsuits against the food industry that inspired H.R. 339, this bill continues the disturbing trend of federalizing tort law. Enhancing the power of the federal government is in no way in the long-term interests of defenders of the free market and Constitutional liberties. Therefore, I must oppose this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. OSE). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 339

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the “Personal Responsibility in Food Consumption Act”.*

#### SEC. 2. PURPOSE.

*The purpose of this Act is to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.*

#### SEC. 3. PRESERVATION OF SEPARATION OF POWERS.

(a) *IN GENERAL.*—A qualified civil liability action may not be brought in any Federal or State court.

(b) *DISMISSAL OF PENDING ACTIONS.*—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.

##### (c) *DISCOVERY.*—

(1) *STAY.*—In any qualified civil liability action, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

(2) *RESPONSIBILITY OF PARTIES.*—During the pendency of any stay of discovery under paragraph (1), unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure, as the case may be. A party aggrieved by the willful failure of an opposing party to comply with this paragraph may apply to the court for an order awarding appropriate sanctions.

(d) *PLEADINGS.*—In any action of the type described in section 4(5)(A), the complaint initiating such action shall state with particularity the Federal and State statutes that were allegedly violated and the facts that are alleged to have proximately caused the injury claimed.

#### SEC. 4. DEFINITIONS.

*In this Act:*

(1) *ENGAGED IN THE BUSINESS.*—The term “engaged in the business” means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the person’s regular course of trade or business.

(2) *MANUFACTURER.*—The term “manufacturer” means, with respect to a qualified product, a person who is lawfully engaged in the business of manufacturing the product in interstate or foreign commerce.

(3) *PERSON.*—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) *QUALIFIED PRODUCT.*—The term “qualified product” means a food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f))).

(5) *QUALIFIED CIVIL LIABILITY ACTION.*—The term “qualified civil liability action” means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or other relief arising out of, related to, or resulting in injury or potential injury resulting from a person’s consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person’s weight gain or obesity, including an action brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by or on behalf of any person or any representative, spouse, parent, child, or other relative of any person, but shall not include—

(A) an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a Federal or State statute applicable to the manufacturing, marketing, distribution, advertisement, labeling, or sale of the product, and the violation was a proximate cause of injury related to a person's weight gain, obesity, or any health condition associated with a person's weight gain or obesity;

(B) an action for breach of express contract or express warranty in connection with the purchase of a qualified product; or

(C) an action regarding the sale of a qualified product which is adulterated (as described in section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342)).

(6) **SELLER.**—The term "seller" means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling a qualified product in interstate or foreign commerce.

(7) **STATE.**—The term "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) **TRADE ASSOCIATION.**—The term "trade association" means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in the designated place in the CONGRESSIONAL RECORD and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments?

AMENDMENT NO. 5 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SENSENBRENNER:

Section 3(c)(1), strike "In any qualified civil liability action," and insert "In any action of the type described in clause (i) or (ii) of section 4(5)(B)."

Section 3(d), strike "section 4(5)(A)" and insert "section 4(5)(B)(i)".

Section 4(5), strike "The term" and insert "(A) Subject to subparagraphs (B) and (C), the term".

Section 4(5), strike "any person, but shall not include—" and insert "any person."

Section 4(5), insert after "any person." (as inserted by the preceding instruction) the following:

(B) Such term shall not include—  
Section 4(5), strike "(A) an action" and insert "(i) an action".

Section 4(5), insert "or" after "obesity";

Section 4(5), strike "(B) an action" and insert "(ii) an action".

Section 4(5), strike "; or" and insert a period.

Section 4(5), strike subparagraph (C) and insert the following:

(C) Such term shall not be construed to include an action brought under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Mr. SENSENBRENNER. Mr. Chairman, my amendment does not alter the substance of the bill, it simply clarifies it further. First, to clarify and ensure consistency in interpretation, it simply amends one phrase in the bill's stay provisions in Sec. 3(c) to track language used in the bill's pleading requirements in Sec. 3(d). Second, it replaces Sec. 4(5)(c) with language making it clear that the term "qualified civil liability action" does not include an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act.

I believe that this change satisfies the objections that the Committee on Energy and Commerce levied against the bill.

I would urge the Members to support my clarifying amendment.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I rise in support of this amendment. I rise in support of the thesis that we should be considering these matters.

This legislation is a very important part of the administration's program. Just think what it does for this Nation. It says that civility liabilities actions in Federal, State courts against food manufacturers, distributors or sellers that are based on a claim that the person's food consumption resulted in weight gain, obesity or a health condition that is associated with weight gain or obesity is terminated. A very important step.

Now let me give you the history of what we are talking about here, because the administration has an economic program and it is an important economic program and the American people need to know what it is.

First, the Chairman of the Council of Economic Advisors said that the transportation of American jobs abroad or outsourcing is a normal part of trade and he supports it. Second, the administration has come forward with a serious attempt to expand the definition of manufacturing in this country, something which is very important, especially if you are sending manufacturing jobs overseas. And this administration has sent 2.7 million manufacturing jobs overseas. They have also lost 3.3 million jobs in the United States. So there is a serious attempt on the part of this administration to grapple with that problem.

They seek to see to it that we can change the definition of manufacturing jobs now so that they cover fast food handling. Just think of what this means in terms of jobs for the American people. Jobs in manufacturing that paid \$27 an hour will now pay minimum wages at McDonalds or Wendy's or Burger King or somebody like that. But just think of the number of new jobs that they can create.

Now, this bill is going to protect those new manufacturing jobs against

the prospect of lawsuits which might, in some way, jeopardize the expansion of the American economy and the creation of new jobs in manufacturing.

□ 1315

I think that this tells us many things. First of all, it says they no longer care about autos or steel or aircraft or other important manufacturing concerns and interests that mean jobs, real jobs for the American people, but at least it means that they are paying attention to the fact that we have got to have something done for job creation in this country. It means that they are finally recognizing that we have to protect some portion of the American economy.

The fact that they are beginning with fast food, and food should not be a source of condemnation but rather one of praise, because it means that after a long slumber, they have come alert to a significant problem, the fact that they are not competent to come forward with a real solution, which puts Americans back to work in real jobs, which would enable Americans to have jobs, which will enable them to feed their families, to house them properly, to see to it that they are properly educated or go to college is only a beginning.

We must hope that with the assistance of this body and the passage of this important legislation that perhaps, just perhaps, we will begin down the road towards doing something about protecting American manufacturing, about protecting American manufacturing jobs and about seeing to it that Americans go back to work.

I do not want my colleagues to denigrate the administration. It is not funny. It is sad, and what I want to say to my colleagues is, it is time we do something more than just pass this kind of legislation.

Let us address the problem of the sanctions that the Europeans are getting ready to put on American manufacturers and American industry and the American economy. There is a discharge petition down here at the clerk's desk. My colleagues can sign on it if they want. We can begin to address the fact that this administration does not care about manufacturing, that they have lost millions of manufacturing jobs, that they are not able to be truthful about it.

Last month, we got 22,000 jobs through. In these jobs, 21,000 of them were government jobs, State and local. They were not manufacturing. They were not jobs that put people to work, and they were not jobs that increase productivity for the economy. They were just jobs in the service industry.

If my colleagues look, they will find that there are hundreds of thousands of Americans every month who are falling off the unemployment rolls. If my colleagues look, they will find that there are millions of Americans looking for jobs. They will find that the real unemployment level is around 7.4 million instead of the 5.6 percent that they are

talking about. This is a serious problem. It needs to be addressed. This kind of legislation will not do it.

Mr. WATT. Mr. Chairman, I move to strike the last word, and I am going to ask the gentleman from Michigan if I can ask him a question or two, if he will go back to the microphone because he touched on a subject that I talked about in the general debate here, and he at least has tried to put this in perspective for me.

I could not quite figure out what it was that the argument was that this bill was about job creation. Is the gentleman now saying that the production of hamburgers is a manufacturing job?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, that is what the administration would tell us, but I would say to my friend, that I am as confused on what the administration's policy is as the administration is and as my good friend is, because they do not seem to know what they are doing, what they are standing for or what they are about. They like jobs going overseas. They think that manufacturing jobs should be flipping hamburgers or handling trays or dealing with mopping the floor in a McDonald's. Those, to this administration, are massive manufacturing jobs.

At the same time, they are not giving tax cuts to the people who would buy those hamburgers or who would buy American automobiles or do other things to make the economy really move and go as it should.

Mr. WATT. Mr. Chairman, I appreciate the gentleman giving me that enlightenment because I had been trying to stretch my imagination to figure out how this debate was about jobs, and I think the gentleman has put his finger on it. I do not necessarily agree with him, but at least that gives the argument some plausibility if one is trying to argue that the processing of hamburgers is manufacturing jobs and it is a manufacturing process and that we have got to protect manufacturing jobs in this country, then we want to do everything we can, but I think it is a stretch.

As I said before the gentleman arrived on the floor, I have heard some pretty interesting explanations for job loss in this country, but this would be way, way, way down the list, like 999,000 on my list of the problems that is creating job loss in this country. I am surprised that the sponsors of this bill have couched it in terms of job creation, but the gentleman has certainly, with the years of experience he has been here, given me some framework within which to evaluate that. I am most appreciative to him.

I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, I thank the gentleman. I will observe that the creation of jobs is one of the major functions of government and seeing to it that we have the prosperity

that is needed, that people can work, they can raise their families well, that they can heighten expectation of this generation and the next generation for the future of this country.

I would say that sending jobs to India or China is not a function of which the administration could be proud. I would say that the administration's got to start functioning and focusing on those questions. I would say they are not. I would say this body, with this legislation, is not focusing on those questions either.

It is time we get down to the serious business of addressing jobs, manufacturing, opportunities for Americans and stop all of this piddling around with nonsense that accomplishes nothing in the broad public interest.

Mr. WATT. Mr. Chairman, reclaiming my time, I am going to join my colleague from Michigan in supporting the amendment. I am not sure whether it was tongue-in-cheek that he was supporting the whole concept, but I cannot join him in supporting the bill if he is supporting the bill. I doubt that that is what he is doing. I think that was kind of tongue-in-cheek that he was proceeding, but I certainly support this amendment. It makes a terrible bill less terrible. We could not make it any worse, I do not think, and more importantly, from the sponsor's perspective, it keeps the bill from having to go to the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, if the gentleman would yield, we will receive this bill most kindly in the Committee on Energy and Commerce, and we would have some splendid questions for the sponsors of this legislation about jobs and job creation.

Mr. WATT. But this is such a critical piece of legislation that it must be considered on the floor today and anything that would delay the consideration of it on the floor today, even if it went to the Committee on Energy and Commerce, which has jurisdiction over most food issues and matters of commerce of this kind, would surely be counterproductive.

Mr. DINGELL. Mr. Chairman, it would be helpful, I believe.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, as the designee of the gentleman from North Carolina (Mr. WATT), I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SCOTT of Virginia:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

**SEC. 5. STATE CONSUMER PROTECTION ACTIONS.**

Notwithstanding any other provision to the contrary in this Act, this Act does not

apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices.

Mr. SCOTT of Virginia. Mr. Chairman, this amendment reads simply: "Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices."

Mr. Chairman, if the House is going to decide that we will try some cases instead of letting them be tried in court, we ought to at least limit that to the fast food rhetoric that we have heard on the floor. This bill, in fact, covers not only fast food lawsuits, but also litigation involving consumer protection when obesity may be one of the elements of the case.

Every single State has laws in the books to protect its consumers. Each State has laws to protect its consumers from misleading practices. As written, the bill will prevent States' Attorneys General from enforcing these laws. It will not just stop the fast food suits that my colleagues have discussed, but because a person is defined in section 4(3) of the bill to include governmental entities, it will prevent States from getting injunctions, cease and desist orders, or imposing fines against those who endanger consumers.

The exception for a willful and knowing violation is not just enough. State deceptive practices are just like the Federal Trade Commission Act. They allow civil enforcement actions whether or not the defendant knowingly or willfully violated the law. In fact, food labeling and deceptive practices often have exacted strict liability, that is, that the government can get an injunction whether or not the person was intentionally or knowingly in violation.

Mr. Chairman, my State of Virginia has a Consumer Protection Act which prohibits, and I quote, representing that goods and services have characteristics, ingredients, uses, benefits or qualities that they do not have or any other conduct which similarly creates a likelihood of confusion or misunderstanding. A court may order an injunction or restitution to injured parties, even if the violation was unintentional.

The fact is Virginia is not alone. Twelve States have adopted the Uniform Deceptive Trade Practices Act section 3 which says intentional deception is not necessary to get injunctive relief, and at least 23 other States have similar standards.

So, Mr. Chairman, the amendment I present today will fix the problem. It will ensure that States can still put an end to mislabeling, deceptive practices and false advertising within their borders. Whatever we think of the fast food suits, please do not prevent States Attorneys General from protecting their citizens.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

I am not going to support this amendment, and I would ask all of my colleagues to vote no on this amendment on two grounds.

The first ground is that the bill only precludes lawsuits in which the injury claimed is obesity and weight gain. State consumer protection statutes are not lawsuits in which the injury claimed is obesity or weight gain. Rather, in the State consumer protection cases, the injuries claimed are unfair and deceptive trade practices or misleading labeling.

However, because the amendment implies that the State consumer protection laws somehow do allow lawsuits in which the injury claim is obesity or weight gain, Courts may well read it to grant all State agencies new power to use their State consumer protection laws to seek damages against the food industry for obesity-related claims. In other words, this would essentially gut the bill by allowing State Attorneys General to bring the very same claims that we are trying to get rid of.

I cannot think of a single State consumer protection law right now that allows a State agency to sue because someone got fat from eating too much.

The second ground I object to this amendment on is the gentleman from Virginia (Mr. SCOTT) said he does not like the fact we have the knowing and willful standard. The knowing and willful standard is exactly the same standard used in H.R. 1036, the Protection of Lawful Commerce and Arms Act that overwhelmingly passed this House in a bipartisan fashion. It got 285 votes, and so anyone who voted for H.R. 1036 and who votes for this amendment will literally be voting for stronger protection for gun manufacturers than for the food industry, which is the largest private sector employer, providing jobs to some 12 million Americans.

I urge my colleagues to vote no on this amendment.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Virginia's (Mr. SCOTT) amendment. It seems to me to be absolutely consistent with the manager's amendment which said that this legislation was not going to be construed to include an action brought under the Federal Trade Commission Act.

State consumer protection laws are characteristically State counterparts to the Federal Trade Commission Act. They are States' efforts to protect the same kind of things at the State level that the Federal Trade Commission has jurisdiction over at the Federal level.

□ 1330

Now, this kind of takes me back to the argument before, I had the notion that the reason that they really were striking the Federal Trade Commission Act from the applicability of this proposed law was because they really did not want this legislation to have to go to the Committee on Energy and Commerce, so it was more about them not

wanting to delay today's proceedings and not wanting them to let the Committee on Energy and Commerce, for which there has been a long-standing tension on many issues between the Committee on the Judiciary and the Committee on Energy and Commerce, they did not want them to have any jurisdiction over this.

But if we are going to exclude actions brought under the Federal Trade Commission Act at the Federal level, in fairness, unless we are saying to the States that somehow or other they are less attentive to these issues or less intelligent or have less of an interest in protecting your citizens than your big brother Federal Government has, then it seems to me that we ought to be following the same process at the State level, and it is the State consumer protection laws that are the equivalent of the Federal Trade Commission Act on the Federal basis.

So if we are going to be parallel or consistent in our evaluation of these things, it seems to me that the amendment of the gentleman from Virginia (Mr. SCOTT) makes patently good sense. And of course I am not sure that any of this is designed to make patently good sense, but I think it is our obligation in this body to at least try to bring some consistency to it.

Now I am assuming that under the Federal Trade Commission Act, if there are any individual causes of action, those things would be protected also. I do not know that. We have not had any hearings on this to make that kind of determination, but certainly the word "person," as it is defined, would exclude State consumer protection laws that are typically administered by the attorney general for the protection of the citizens in that particular State, and perhaps that is the reason that the State attorneys general are so vigorously opposed to this legislation. They do not view us or the Federal Trade Commission as being their big brothers, and more brilliant, sometimes more arrogant, they would tell you. They think that they serve a pretty valuable role in this Federal system that we have. Again, we are dishonoring that role. I urge support for the gentleman's amendment.

Mr. CANNON. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to this amendment. Recently, the food industry has been targeted by a variety of legal claims which allege businesses should pay monetary damages and be subject to equitable remedies based on legal theories of liability for the overconsumption of its legal products.

In our subcommittee hearings last year, we explored the threat the food industry faces from frivolous litigation, the threat to personal responsibility posed by the proliferation of such litigation, and the need for H.R. 339, the Personal Responsibility in Food Consumption Act.

H.R. 339 currently has 119 cosponsors. A similar bill was signed into law by

Louisiana Governor Mike Foster on June 2, 2003, with huge bipartisan support. Every Republican in both legislative Chambers voted for the measure, as did 93 percent of Democrats in the Louisiana House and 83 percent of Democrats in the Louisiana Senate.

Recent history shows why similar legislation is necessary at the Federal level. We have seen industries brought to the verge of bankruptcy by frivolous lawsuits seeking billions of dollars. Today we have Ralph Nader comparing fast food companies to terrorists by telling *The New York Times* that the double cheeseburger is "a weapon of mass destruction." In a hearing before our subcommittee last year, a law professor who helped spearhead lawsuits against the tobacco companies has said of fast food litigation, "If the legislatures won't legislate, then the trial lawyers will litigate."

It is clear that obesity is a problem in America. Equally clear, however, is the simple availability of high-fat food is not a singular or even a primary cause. For example, recent findings drawing on government databases and presented at a scientific conference of the Federation of American Societies for Experimental Biology biological showed that over the past 20 years, teenagers have, on average, increased their caloric intake by 1 percent. During that same time period, the percentage of teenagers who said they engaged in some sort of physical activity for 30 minutes a day dropped by 13 percent. Not surprisingly, teenage obesity over that same 20-year period increased by 10 percent, indicating it is not junk food that is making teenagers overweight, but rather a lack of activity.

In short, it is unlikely that lawsuits against food establishments over their menu offerings will do much, if anything, to make us healthier. On the other hand, such lawsuits will threaten thousands of jobs that are today available to teenagers and other entry-level workers who need those jobs. Further, such lawsuits send the wrong message regarding personal choices and responsibility. Do we want our kids growing up believing it is a restaurant's fault that they are eating too many cheeseburgers?

Besides threatening to erode values of personal responsibility, the legal campaign against the food industry threatens our notion of government. Nationally coordinated lawsuits seek to accomplish through litigation what has not been, and will likely not be, achieved through legislation.

Last year, the House passed H.R. 1036, the Protection of Lawful Commerce in Arms Act by a large, bipartisan vote. That bill bars frivolous lawsuits against the firearms industry for the misuse of legal products by others. H.R. 339 similarly seeks to bar frivolous lawsuits against the food industry for overconsumption of its legal products by others. It is appropriate for Congress to respond to this growing legal assault on the concept of personal responsibility.

Mr. Chairman, it is not only important, but also fundamental that Americans have access to courts to redress legitimate wrongs and the harms they cause. The trial bar serves an invaluable purpose in helping average Americans gain rightful and proportionate compensation when harm is done. However, frivolous lawsuits such as the ones this legislation seeks to prevent serve only to undermine our legal system and those who truly need its protections.

Mr. Chairman, I urge my colleagues to oppose this amendment and support the underlying bill, H.R. 339.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

I would like to speak in favor of the Scott amendment. The wisdom of the common law has evolved and worked for centuries. It is older than the United States of America. It is bizarre that this House created one exception to the common law in the case of gun manufacturers, now it is trying to create another one in the case of certain food purveyors.

If you can sum up the history of the western jurisprudential system, it is that common law is usually right and statutory interferences with common law is usually wrong.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I think we need to review what the amendment actually is. In section 4.3, they define person who can bring these lawsuits as individuals, corporations, companies, but it includes any governmental entity.

The lawsuits we are talking about are lawsuits arising out of, related to, or resulting in injury or potential injury resulting from person's consumption of a qualified product and weight gain, obesity or any health condition that is associated with a person's weight gain or obesity, including, and it goes on. This is overly broad.

Let us just read what the amendment says. It says that the Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair or deceptive trade practice. We do not need protection from State attorneys general enforcing our consumer protection laws. I would hope that we adopt the amendment.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. KELLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

□ 1345

AMENDMENT NO. 7 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. OSE). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. WATT:  
Section 3(a), strike "or State".

Mr. WATT. Mr. Chairman, the amendment that is being offered simply strikes two words from the bill. Those words are "or State."

This is an opportunity for those of us who really believe in the Federalist system in which we operate. Those of us who believe truly in the rights of States to control what happens in their States and in their communities, those who believe truly in States' rights to get it right, I am giving you the opportunity.

If there is a rationale for our involvement in this and if there is something that we should be exercising jurisdiction over, it is what comes into the Federal courts, and not what goes into the State courts. So the effect of this amendment is simply to take out the State court component of this.

I want to confess up front that I think this is a bad idea, whether it is in the Federal court or the State court; so I am going to vote against the bill even if this amendment passes. But for those who believe that this is a good bill, that this is a worthy cause, if you have any belief in the Federalist form of government in which we operate, that States and State judiciaries and legislators have certain powers, then you should be supporting this amendment.

State courts and legislatures are perfectly capable of determining which lawsuits are appropriate and which lawsuits constitute an undesired drain on their resources. Right now, 11 State legislatures, including California, Colorado, Florida, Idaho, Louisiana, Missouri, Nebraska, Ohio, South Dakota, Washington and Wisconsin, the chairman's own State, have introduced or passed legislation to ban some form of obesity-related lawsuits. Some of those States have banned a broader range of cases than this proposed legislation would ban.

H.R. 339, this legislation that we are considering, would displace and disrespect the actions of those State legislatures that have acted and impose a ban on those States that have not perceived a need to enact legislation banning obesity suits.

The bill arrogantly presumes that State court judges are incapable; and I am going to keep saying that over, and over and over again. I have said it a million times; I may say it a million more times before this debate is over. It is arrogant for us to assume that State court judges are incapable of carrying out their judicial responsibilities. Should State court judges deter-

mine that any lawsuit lacks merit or appropriate proof, they can dismiss it. If they determine that a case is frivolous, they can dismiss it and sanction the attorneys involved.

The proponents of this bill seek to prevent cases that have already gone through the system and have been dismissed. This bill is a solution in search of a problem, believe me.

If there is a rationale for this bill, and I do not believe there is, we at least ought to respect the Federalist form in which we are operating and limit the application of the bill to cases filed in the Federal court. We are not Big Brother here in this body, and my colleagues have reminded us of that many, many times rhetorically. They say they believe in States' rights. If they do, if you do, my colleagues, please support the Watt amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from North Carolina and I have a little bit different view of the role of federalism in our country. All I can say is I am happy that his view did not prevail during the great debates on civil rights that occurred in this Chamber and down the hall in the Senate Chamber during the sixties, seventies and eighties, because the notion of States' rights would not have been agreed to by the gentleman from North Carolina.

I think this amendment must be defeated because it would gut the bill and also fail to protect the decisions of State legislatures regarding food policy. I do not think we want to see a single judge in a single State court deciding to establish national policy. We have seen far too much of that, and the Watt amendment would allow that type of judicial misinterpretation to occur in a State court somewhere in this country.

This bill is also about protecting the separation of powers and the legislative prerogatives of the elected representatives at the State level. The amendment would gut those provisions.

The drive by overeaters' personal injuries attorneys to blame those who serve them food and to collect unlimited monetary damages is an attempt to accomplish through litigation that which has not been achieved by legislation and the democratic process.

John Banzhaf, a law professor at George Washington University who helped spearhead lawsuits against tobacco companies, has said, "If the legislatures won't legislate, then the trial lawyers will litigate." National Public Radio, August 8, 2002.

Various courts have described similar lawsuits against the firearms industry for harm caused by the misuse of its products by others as an attempt to "regulate through the medium of the judiciary" and "improper attempts to have the court substitute its judgment for that of the legislature, something which the court is neither inclined to

nor empowered to do." Such lawsuits break down the separation of powers between the branches of government.

Large damage awards and requests for injunctive relief have the potential to force the judiciary to intrude into the decision-making process properly within the sphere of another branch of government, namely, State legislatures. That is the intent behind these fast-food lawsuits, to circumvent legislatures, to circumvent the Congress and the popular will of the people who elect us.

Further, Congress has the clear constitutional authority and the responsibility to enact H.R. 339. The lawsuits against the food industry H.R. 339 addresses directly implicate core federalism principles articulated by the United States Supreme Court, which has made clear that "one State's powers to impose burdens on the interstate market is not only subordinate to the Federal power over interstate commerce, but is also constrained by the need to respect the interests of other States."

Congress can, of course, exercise its authority under the Commerce Clause to prevent a few State courts from bankrupting the food industry.

In fast-food lawsuits, personal injury lawyers seek to obtain through the court stringent limits on the sale and distribution of food beyond the court's jurisdictional boundaries. By virtue of the enormous compensatory and punitive damages sought, and because of the types of injunctive relief requested, these complaints in practical effect would require manufacturers of lawfully produced food to curtail or cease all lawful commercial trade in that food in the jurisdictions within which they reside, almost always outside of the States within which the States are brought, to prevent potentially limitless liability. Insofar as these complaints have the practical effect of halting or burdening interstate commerce in food, they seek remedies in violation of the Constitution.

Such personal injury attorneys' claims directly implicate core federalism principles articulated by the Supreme Court in *BMW of North America v. Gore*, 1996. The *Gore* case makes clear that "one State's power to impose burdens on the interstate market is not only subordinate to the Federal power over interstate commerce, but is also constrained by the need to respect the interests of other States."

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(By unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 1 additional minute.)

Mr. SENSENBRENNER. Mr. Chairman, the Supreme Court in *Healy v. Beer Institute*, 1989, elaborated on these principles concerning the extraterritorial effects as follows: "The critical inquiry is whether the practical effect of the regulation is to control conduct beyond the boundaries of

the State. The practical effect of the statute must be evaluated not only by considering the consequences of the law itself, but also by considering how the challenged law may interact with the legitimate regulatory regimes of other States and what effect would arise if one, but many or every, State adopted similar laws. Generally speaking, the Commerce Clause protects against inconsistent laws arising from the projection of one State regulatory regime into the jurisdiction of another State."

So this bill is supported by sound federalism principles, there is a national interest involved, and that is why the amendment should be defeated.

Mr. ANDREWS. Mr. Chairman, I rise in support of the Watt amendment.

Mr. Chairman, I must say with respect to the issue of federalism and the proper role, I think the comparison of this issue to civil rights is completely inapposite. The principle of civil rights is when State legislation or State action violates a fundamental constitutional right, it cannot stand. There is no fundamental constitutional right involved here. This is the power the 10th amendment expressly meant to be reserved to the States, either through their legislatures or their courts.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding. The gentleman puts it a lot milder than I do.

I am not surprised, but I am extremely insulted, that this piece of crap, this bill, would be put on the same level that our civil rights laws in this country have been put on.

Now, I am not surprised. I knew that was coming, because we have had this discussion with my chairman on several occasions on this floor. But I want you to know that the notion that there are basic constitutional rights that the civil rights laws had to enact to enforce was based on rights that were articulated in the Constitution. The right to vote, and it is a shame that we had to have legislation at the Federal level to make it clear that the right to vote applied to all of our citizens in this country, there is no comparison between this bill and that.

The right to travel on a bus and sit where you want, it is a shame that we had to have Federal legislation to tell the States that they had to enforce that basic human constitutional right.

I am insulted that this piece of legislation, and if I went too far in calling it a piece of crap, I apologize to the Chair. I knew he shuddered when I said that, so maybe that is going too far. But it is an abomination for us to be trying to compare this statute to the civil rights laws.

I am really disappointed that this kind of expansive, unprecedented interpretation of the Commerce Clause would be articulated by the chairman of our committee on the floor of the

House of Representatives. Under the theory that has just been advanced, to tie it back to the Commerce Clause, to tie this legislation back to the Commerce Clause, anything could be taken over by the Federal Government. There would not be any State legislatures or State courts. Anything in commerce of any kind could be taken over.

That is not what the Commerce Clause says. And with all due respect, I went to law school too. I took my constitutional law under a guy named Robert Bork. I do not think he would say that is what the Commerce Clause says.

I am flabbergasted that we would be told on this floor that this proposed legislation is sanctioned by the Commerce Clause and that it is anywhere in the ball park close to what the civil rights laws were designed to do.

We ought to be ashamed of ourselves. And we ought to be ashamed of ourselves for destroying the Federal concept that our Founding Fathers made for us. It would be something else if we were doing it about something that is real. There is not a single pending lawsuit now involved that has not already been dismissed. The States are already acting on this. It is not as if they are ignoring it.

If you were in the State legislature, if you want to go vote on stuff like this, go to the State legislature. Many of us came out of the State legislatures. There are people there that are just as smart, just as intelligent as we are here in this body. For us to insult our State legislators and our State judiciary for some political purpose is unforgivable, in my opinion.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would urge Members to exercise discipline in vocabulary to preserve the decorum of the House.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the enthusiasm of the gentleman from North Carolina (Mr. WATT), and as the author of the bill that was described that way, I can assure you that I take no offense. Sometimes in the heat of passion things come out, so there is no need to apologize to me.

Let me just say this with respect to the gentleman from North Carolina (Mr. WATT), he is at least consistent. He offered this same amendment in committee, made the same arguments, it was rejected in committee. I urge my colleagues to reject it once again here on the House floor and for the very same reason.

This amendment would essentially gut the bill and encourage venue shopping among very creative trial lawyers. Let me just give you one example.

The Louisiana legislature, which, by the way, is a Democrat legislature, both the House and the Senate, passed a very similar bill to mine after I filed mine with 94 percent of the legislators voting "yes," broad bipartisan support.

So, yes, you cannot bring an obesity lawsuit in Louisiana.

So if you are an ambitious trial lawyer, what about Mississippi? Well, they do not have such a law, and that is exactly where the suit would be filed, or some other State that is a nice haven for tourists.

We do not have to guess about this, because we had a hearing on this matter; and the Democrats could have chosen anyone to appear, and they chose a man named Mr. Banzhaf, who says it is his goal to open the flood gates of litigation against our major employers such as McDonald's.

This is what he said. Keep in mind the potential Mississippi lawsuit: "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open the flood gates." We do not have to guess what their theories are; they have already told us.

So Congress, of course, can exercise its authority under the Commerce Clause to prevent a few States from bankrupting the food industry, which is the largest nongovernmental employer in the United States. Congress, of course, has the authority under the Commerce Clause. That is not just the opinion of the gentleman from Wisconsin (Chairman SENSENBRENNER) or myself. The U.S. Supreme Court in *Healy v. Beer Institute* said, "Generally speaking, the Commerce Clause protects against inconsistent laws arising from the projection of one State regulatory regime into the jurisdiction of another State."

I urge my colleagues to vote "no" on the Watt amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. WATT) will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. ANDREWS: Section 4(4), insert before the period at the end the following: " ", except that a food that contains a genetically engineered material is not a qualified product unless the labeling for such food bears a statement providing that the food contains such material and the labeling indicates which of the ingredients of the food are or contain such material".

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

□ 1400

Mr. ANDREWS. Mr. Chairman, the rationale of the underlying bill, with

which I disagree, but the rationale of the underlying bill is that educated and knowing consumers who make a choice as to what they eat are responsible for the consequences of what they eat. So that if someone eats a lot of food that is high in saturated fat and suffers heart disease or other health-related problems as a result, that they are responsible for that result, and it should not be the person who sold them the food. Frankly, I think that the judicial system of the country is reaching the same answer and does not need our interference to push them toward that answer, but that is the underlying premise of the bill. Informed consumer choice trumps litigation.

My amendment is designed to provide an informed consumer choice, and here is what it says. It says that if a seller of food is selling genetically-altered food, it can only receive the immunity granted by this bill if the seller of the genetically-altered food fully discloses to the person buying and eating the food the fact that it has been genetically-altered and the nature of the genetic alteration that took place. Let me explain.

We have had instances where, for example, the cornmeal that is used for taco shells has been found to be genetically-altered. People have three objections to this. The first is that they are fearful it will make them sick. The jury is out on this. There are people who will say that these foods are dangerous. There are people who will say that the foods are not dangerous. But there are people who want to make that choice for themselves as to whether or not they eat genetically-altered food.

The second problem is that people may have allergies to genetically-altered food, but if they are not aware of the fact that the food has been altered in such a way, they may be subjecting themselves to the health hazards associated with an allergic reaction.

Thirdly, there are people who, for religious or cultural reasons, do not wish to eat genetically-altered food, particularly if the genes that are used for that genetic alteration come from a food product that they do not ordinarily eat as part of their religious or cultural practices.

So what this bill says is that we offer the food purveyor a choice. If the food purveyor discloses fully to the consumer the fact that the food has been genetically-altered and is precise in disclosing the nature of the genetic alteration, then that food purveyor will enjoy the immunity granted by this bill. But if the food purveyor chooses not to make that disclosure, if it chooses not to disclose the fact that the food has been genetically-altered and chooses not to disclose the nature of the genetic alteration, well then, under those circumstances, that food purveyor would not enjoy the immunities granted by this bill.

Mr. Chairman, between 1987 and 2000, the United States Department of Agri-

culture authorized 14 field tests of crops engineered with animal or human genes. An example of some of the combinations being done are chicken genes in corn, wheat, and Creeping Bent Grass. Human genes in barley, corn, tobacco, rice, and sugarcane. Mouse genes in corn, along with human genes. Cow genes in tobacco, carp genes in safflower, pig genes in corn, Simian Immunodeficiency Virus, or SIV and Hepatitis B genes in corn.

Now, as I said a minute ago, Mr. Chairman, the jury is out as to whether there are deleterious health effects with respect to genetically-altered food. We are going to have scientific evaluation and come to a conclusion on that question. But I would certainly think the majority, which believes so strongly in informed choice by consumers, would extend that principle to this case and would want consumers to be fully informed that they are choosing genetically-altered food and they would want them to know the nature of the genetic alteration. The idea behind this amendment is to encourage that disclosure, not require it, but to encourage that disclosure by granting the underlying immunity that is granted in the bill to food purveyors who make the disclosure and denying the underlying immunity in the bill to those who fail to make that disclosure.

The argument for this bill, as I understand it, is that personal responsibility should trump litigation. If you know what you are eating and you choose to eat it, and you get sick as a result of eating it, you live with the consequences and you cannot visit those consequences through civil litigation on the person who sold you the food.

Well, if you accept that underlying principle, then you ought to accept the argument that in the case of genetically-altered food, the consumer has the right to know, because if the consumer does not have the right to know, then the consumer is not making a knowing and intelligent choice as to what he or she is eating. That has consequences for potential health risks, it has consequences for exposure to allergic reaction, and it has consequences for the religious and cultural practices that many of our fellow citizens and many other residents of America follow in their dietary practices.

I disagree with the underlying premise of this bill, but I would implore those who disagree with me on that point to embrace this amendment, because if you want to support knowing and voluntary choice in the food you are eating, then let us really make it a knowing and voluntary choice when it comes to the very controversial question of genetically-altered foods.

There are many Members of this Chamber who believe that genetically-altered foods are appropriate. They oppose legislation that would limit or prohibit the use of genetically-altered foods. There are other Members who

feel strongly that genetically-altered foods should be limited or prohibited. Irrespective of where one comes down on that debate, it seems to me one ought to embrace the position that the consumer has the right to make that choice.

Mr. Chairman, I urge the adoption of the amendment.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to ask my colleagues to vote "no" on the Andrews amendment on several grounds. This amendment opposes additional regulations on the food industry, increasing their cost of doing business and threatening additional jobs in the food industry, our Nation's largest private sector employer. But more problematic, the amendment contains no definitions of what would constitute a proper label and, therefore, it would expose even those companies who could afford to comply with the new regulations to lawsuits that would cost yet more jobs.

This amendment is an attempt to regulate an entire industry with one clause, and that is a recipe for confusion and disaster. Even companies who labeled, in an attempt to gain the benefits of the bill, might not get such protections because some judge somewhere will deem their attempt to label inadequate, and the amendment provides no standards to guide either the private sector or judges. Additionally, there is no definition in the amendment of genetically engineered, so people will not even know if their products have to comply with these additional regulations.

Essentially where the gentleman from New Jersey (Mr. ANDREWS) should have his day is trying to amend the Federal Food, Drug and Cosmetic Act and make his changes there, but not here where it is so vague that it does not have those definitions that would be needed.

Also I would point out that if there is some State statute dealing with genetically-altered foods and it requires certain labeling and so on and so forth or advertisement requirements, and if that State statute is violated, under the provisions of this bill, the claims could go forward.

So I would ask my colleagues to vote "no" on the Andrews amendment for the reasons suggested earlier.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Andrews amendment, and I would say that this is one of the areas, one of several areas, in fact, that the processing of this bill without really letting it go through the Committee on Commerce or without really a whole heck of a lot of deliberation in the Committee on the Judiciary, and hearings, this is just one of those areas that might have been dealt with if the bill were being considered in a serious legislative process, rather than just a political vehicle.

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I thank my friend for yielding, and I would say to my friend, the gentleman from Florida, who just spoke, that I respectfully believe that he is in error in two points in criticizing the amendment. First, he says that my amendment imposes regulation on the food industry; that is not the case. It provides the industry with a choice. If it chooses to reach for the immunity granted by the underlying bill, yes, then it is subject to this disclosure requirement. But if it chooses not to reach for that immunity, then it is not subject to the disclosure requirement.

Second, the gentleman is critical of the lack of definitions in the amendment. I would submit that this amendment will be defined and interpreted in the same way his underlying bill is, which is to say there will be litigation over the meaning of ambiguous terms and the courts will determine what they mean. Unless I am missing something, I notice that the underlying bill does not define the word "obesity," for example, and there could be a spate of litigation as to whether a suit is over a product associated with obesity or not, because you claim it is associated with diabetes or it is associated with heart disease or it is associated with mental illness. I mean, one could make a lot of different claims to work one's way around the bill.

As the gentleman knows, and I know he is a skilled attorney, as the gentleman knows, one of the functions of our judiciary is to provide case law that defines terms not specifically defined in statute. So no one should oppose this amendment if they believe that it imposes regulations on the food industry, because it does not.

I would conclude by saying that when the gentleman says that this subject matter is best dealt with through the Committee on Commerce and the Food and Drug Administration, he is right, which is one of the reasons why we should defeat the underlying bill on the floor.

Mr. WATT. Mr. Chairman, reclaiming my time, I would just say that the gentleman need not worry about whether there is a definition of obesity. If they do not like the definition of "obesity" that the courts give, I guarantee my colleagues we will be back here next year or the year after next with a Federal piece of legislation that is designed to solve that problem. That is the way this bill is being processed and the spirit in which it is being processed. Unfortunately, nobody has any good ideas or can protect their own States, other than this Congress or my colleagues on this committee, and that is the way they proceeded.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am very supportive of food labeling requirements, including labeling requirements for a geneti-

cally-modified food, and would support such legislation if it were coming as an amendment to the Pure Food, Drug and Cosmetic Act. However, the amendment of the gentleman from New Jersey is the wrong way to do it, and here is why.

If the amendment of the gentleman from New Jersey passes and the bill is enacted into law with his amendment, then all someone needs to do to defeat the immunity that is given to the food industry under this bill is to simply allege that there was not the proper notice that was given. This allegation, at least in terms of the preliminary motions in court, is taken as true, and that sets up a question of fact. All of the expenses that are needed in terms of defending a lawsuit, such as depositions and the like, are going to have to be incurred in order to prove that there was the proper notice given or that there were no genetically-modified organisms that were supplied in the food that the plaintiff consumed.

So as a result, in the name of better labeling rather than attacking this issue as an amendment to the Pure Food, Drug and Cosmetic Act, which is where I think it belongs, the gentleman attempts to have what is in the jurisdiction of another committee and which deals with another enactment on the statute books of the United States of America through this method.

I would support the gentleman from New Jersey if he was doing it the proper way through an amendment to the Food, Drug and Cosmetic Act, but this is not the way to do it.

Now, secondly, there is nothing in the gentleman's amendment that says what constitutes an adequate notification. Does an adequate notification consist of the nutritional sign on the wall of a fast food restaurant that talks about ingredients and that nobody stands and stares at unless the line is so long that they have to do it? Does it require that there be this kind of a label on every package that is handed to the customer with the food contained in it? These are the types of things that really should not be left up to the courts to, in their infinite imagination, determine what is adequate and what is not; it should be done in the proper way by the proper committee, and that is why this amendment ought to be rejected.

□ 1415

Mr. DOOLEY of California. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Chairman, I also rise in opposition to this amendment. I do not think this is the proper vehicle for us to be attaching this to. The issue of genetically enhanced products is something that we have spent a lot of time on. I think our existing regulatory structure gives us the opportunity to really get

verification in whether or not any of these new approaches do pose any health risk to consumers.

And I think now we can have great confidence that the products that are coming onto the market, that are containing genetically enhanced products are, in fact, determined to be safe for human consumption.

I think when we have an amendment such as this it poses, I think, a situation where we will actually impede the development of an industry and of a technology that has the potential to actually have tremendous benefits in dealing with the obesity problem that we have in this country.

There are a number of genetically enhanced products that are being developed now that are going to result in some of our oils being lowered and some of the trans fats and saturated fats that actually can be incorporated into some of our food products that are going to result in less obesity.

I think we would be running the risk of setting back the industry and setting back some of the developments in new technology that actually could be a benefit in improving the nutrition of a lot of our food products and this amendment would actually pose an impediment, would impose a liability that would deny some of these new developments that actually can be of great benefit in terms of enhancing the nutrition that a lot of our citizens are consuming.

Mr. Chairman, I hope we will oppose this amendment.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of H.R. 339, the Personal Responsibility in Food Consumption Act and in strong opposition to the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The food service industry employs some 11.7 million people, making it the Nation's largest employer outside of the government. However, this vital industry has recently come under attack by waves of lawsuits arguing it should be liable for the misuse or overconsumption of its legal products by others.

Frivolous lawsuits require businesses to devote crucial resources to litigate unmerited claims. In order to help ensure that America continues to be an advantageous place to do business, and to help create and maintain American jobs, it is important that we not allow opportunistic trial lawyers to extort money from legitimate companies.

Simply put, businesses in the food industry should not be held responsible for the bad eating habits of consumers. The people of America agree. According to a recent poll, approximately 89 percent of Americans oppose holding the fast-food industry legally responsible for the diet-related health problems of people who eat fast food on a regular basis.

H.R. 339 will help prevent frivolous lawsuits against the foods industry

while preserving State and Federal laws. Specifically, the bill would prevent frivolous lawsuits that claim that the consumption of lawful food products cause injuries resulting from obesity or weight gain.

While the bill would prohibit frivolous lawsuits, it would protect legitimate ones. For example, the bill would not protect businesses that knowingly or willfully violate a State or Federal statute when the violation is a proximate cause of an injury. In addition, the bill would not protect those that violate State or Federal food labeling laws or those that offer adulterated food products.

H.R. 339 is a commonsense bill that will protect legitimate businesses from frivolous lawsuits. I urge my colleagues to support this important legislation. But the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) runs the risk, if it is passed, of gutting this legislation.

The reasons set forth by the gentleman from Wisconsin (Mr. SENSENBRENNER), who has done an outstanding job bringing this legislation to this point, are all valid reasons for opposing this amendment; but in addition there are more. There is absolutely no reason why we have to draw a distinction between two different types of perfectly legitimate products that the appropriate regulatory agencies have found to have no ill effect upon consumers. There would be no difference whether it was a natural product or whether it was one that had been changed through hybridization and all the other ways that we have improved food through the decades, in fact through the centuries, or through biotech-enhanced foods either.

And so for that reason, I strongly oppose this. If the amendment were to pass, it is a back-door way to try to impose labeling in this country. We have opposed this for a long time because there is no distinction between foods that contain biotech crops and those that do not. And the issue is very clear that if you will require it, virtually every product produced in this country made with corn, virtually every product made in this country using soy beans, virtually every product grown in this country with any kind of livestock that have been enhanced, and virtually any kind of product that may be developed in the future, there would become a disincentive to produce these improved products, as the gentleman from California (Mr. DOOLEY) just correctly noted.

This is a huge problem. It would effectively gut this important legislation. H.R. 339 generally prohibits obesity or weight-gain-related claims against the foods industry. This amendment would require manufacturers to label genetically engineered material before being afforded the protections of the underlying bill. The irony is that, as the gentleman from California (Mr. DOOLEY) noted, the opportunity exists with genetically modified

food to improve the problem for people who have obesity, not to make the problem worse.

So I do not understand how this amendment relates to H.R. 339. Biotech crops do not lead to obesity. In fact, biotech research may lead to food products that help combat the obesity problem in America and nutrition problems in the developing world.

Farmers have been growing hybrid and other genetically engineered crops safely for decades. Biotechnology is as safe as conventionally bred crops, according to numerous studies by the National Academy of Sciences, the American Medical Association, and other scientific bodies.

Furthermore, before biotech foods can be sold to consumers, their safety is reviewed by three government agencies: the U.S. Department of Agriculture, the Environmental Protection Agency, and the Food and Drug Administration.

The Andrews amendment runs counter to long-standing U.S. Government food labels policy which preserves food labels for help safety and nutritional information. This amendment is just another ill considered attempt to discourage consumption of biotech foods, which every American, every American consumes on a daily basis and encourages frivolous lawsuits.

I urge my colleagues to oppose this amendment.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The question was taken; and the Chairman pro tempore announced that the yeas appeared to have it.

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. INSLEE:  
Section 4(5)(A), insert after "knowingly and willfully" the following: "or negligently".

Mr. INSLEE. Mr. Chairman, I think there is a bipartisan consensus here today that educated and informed consumers regarding what is in their food should not have a claim relating to obesity and that we would all attempt to write a law that will effectuate that goal. But as Mark Twain said, the difference between the right word and almost the right word is the difference between lightening and a lightning bug. And the difference between a well-crafted bill and one that misses the mark a little bit is the difference between a radical restructuring of civil

liability law in the United States and a bill that we want to produce. And, unfortunately, this bill lacks two words. And our amendment would cure that defect.

Mr. Chairman, it is a very well-accepted principle, if I can compare this scenario, it is a very well-accepted principle that in America if a person is inattentive for a few moments and violated a law by going through a stop sign, they are responsible to the injured party for the wreck. It is a very well-accepted principle that if a person who manufactures jet airplanes is inattentive for a moment, and they fail to put a bolt on an engine and the engine falls off and 250 people are killed, they are legally, or their corporation is legally, responsible for that violation of the law.

It is clear at this moment that if an employee of a company is inattentive and puts the wrong information on the box of a food or a bench or a medical product and someone dies as a result, that corporation is liable for their inattention.

But because of the absence of the word "negligence" in this bill, we would have removed liability for that very, very well-accepted principle. Let me tell you why that is important. Take the case of Steve Beckler, former pitcher for the Baltimore Orioles who took a product called Xenadrine RFA-1. It is a dietary supplement, and it appears to be covered under the definition of food of this statute or proposal. It was sold and Mr. Beckler died. It was advertised as having the quality of a rapid fat-loss catalyst. The medical examiner concluded that his death was a proximate result of this medication.

Now, I do not know exactly about the circumstances of the warnings or lack of warning on that product; but under this bill as currently drafted without the Inslee amendment, if the clear testimony was that the label that said do not take this if you have high blood pressure was left off due to inattention, there would not be a responsibility. And the widow of this gentleman would be out of luck.

If, in fact, someone violated the clear mandate of Congress or a State legislative body to give a specific warning that is identified in law, and if that warning did not get on the product, the victim would still be out of luck.

And I want to make sure people understand this. By inserting the word "negligence" into this bill, we will not be giving jurors the right to determine what warnings or information should be on the product. That is not giving jurors that ambit. All this will say is if my good friend, the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from North Carolina (Mr. WATT), and all of us get together and we pass a law that certain information has to be on the box, like do not take this weight loss supplement if you have high blood pressure, or do not take it if you have evidence of stroke or previous history of stroke, and due to someone's

inattention or the fact that they were asleep at the switch or they just were not doing their job, the victim will not have a claim under law. And I do not think that is what the majority of us ought to be about if we are imposing this obligation.

I ask the majority party, let me just pose this as a friendly question to my friends, if indeed we pass a bill here that requires, for instance, that a warning be on a weight-loss product that says do not take this weight loss product if you have an evidence of high blood pressure, and if an employee is asleep at the switch or is inattentive at the brief moment and the product goes out without the label and somebody dies, I am asking the majority party why the widow or family of such a victim who died as a result of an obligation we voted to impose in United States Congress, why do you intend to deny that person a remedy? That is an open question to anyone in the majority.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. INSLEE. I yield to the gentleman from Florida.

Mr. KELLER. Mr. Chairman, that scenario you just posed about someone taking some kind of improperly labeled diet drug has nothing to do with this legislation. That claim would still go forward and be unimpacted.

This legislation specifically is narrowly targeted to claims based on weight-gain or obesity.

Mr. INSLEE. Mr. Chairman, I reclaim my time.

The CHAIRMAN pro tempore. The gentleman's time has expired.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the committee there was an attempt to strike the knowing and willful standard from the bill. That was unsuccessful. I would ask my colleagues to vote "no" on this amendment as well, which is kind of a new twist there, keeping the knowing and willful, but then they also add "negligently," which in effect does the same thing, strike it. So all you have to do is prove negligence.

This bill already allows a case to go forward any time a Federal or State statute has been knowingly and willfully violated and that violation is a proximate cause of the injury.

□ 1430

Let me tell you why it is important to have this knowing, willful standard and what the precedent is.

The knowing and willful standard is the exact same standard used in H.R. 1036, the Protection of Law Commerce and Arms Act that overwhelmingly passed this House in a bipartisan fashion. In fact, it received 285 votes. Therefore, anyone who voted for H.R. 1036 and who votes for this amendment will be voting for stronger protections for firearms manufacturers than for the food industry, which is the largest private sector employer in the country providing 12 million jobs.

The claim that it is too burdensome to require a person to knowingly violate a law before they can be said to meet the exceptions to this bill, fails to understand the flexible nature of the requirements. Let me give you an example. A typical jury instruction regarding what the so-called mens rea requirement for knowing means states as follows: "Knowledge may be proved by all the facts and circumstances surrounding the case. You, the jury, may infer knowledge from a combination of suspicion and indifference to the truth. If you find a person had a strong suspicion that things were not what they seemed or that someone had withheld important facts yet shut his eyes for fear of what he may learn, you may conclude that he acted knowingly."

Therefore, the knowing standard is certainly flexible enough to produce justice in our courts in all circumstances. There is precedent for it, and it should be used here as well. I also would point out that under the bill, claims can go forward for breach of contract, or breach of warranty as well.

I ask my colleagues to vote "no."

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Washington's (Mr. INSLEE) amendment; and I want to yield to him, but I want to make one comment before I do so.

My colleague, the sponsor of this bill, has on several occasions told us a persuasive, powerful reason for doing something related to this bill is something that we did related to H.R. 1036. First of all, many of us voted against H.R. 1036. It did pass this body, but then it went to the Senate and the Senate jettisoned the bill. So to use as some powerful reason that something is in a bill that had not even gone through the legislative process, was not even worthy of sending to the President's desk for signature, strikes me as being about as far a stretch as saying that this bill is about employment rather than politics.

Mr. Chairman, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I want to again reiterate I think there is a mutual desire to try to find the right language that will accomplish our mutual end, but this bill does not use the right language to do it.

I want to respond to the gentleman from Florida's (Mr. KELLER) statement that my situation was inappropriate. I think I would refer the gentleman to the language of section 5 which cuts off claims for a whole host of injuries including "any health condition that is associated with a person's weight gain or obesity."

Any health condition that is associated with a person's weight gain or obesity. The fact of the matter is if someone forgets to put the label on that says do not take this if you have high blood pressure, and you gain weight and your high blood pressure

goes through the roof, you have a claim associated to your obesity. There is no reason to have to include that language. And if you are going to include that language, you ought to at least include the well-accepted principle of American jurisprudence in 50 States which is this:

If someone refuses to honor the legal mandate for conduct that the U.S. Congress imposed due to inattention or negligence, there is legal responsibility for that. And for the first time as I know it, and I think the gun law is not applicable because that applied to creating an obligation through the obligation of exercising reasonable care, what this amendment does is say if Congress imposes an obligation to say X, Y or Z, it is not the jurors coming up with that obligation to say something on the label. We are simply saying if you do not follow the law, there is a responsibility.

I am asking my colleagues to consider this closely for an additional reason. Yesterday, Julie Gerberding, the director of the Federal Center of Disease Control and Prevention said, "Obesity is catching up to tobacco as the leading cause of death in America. If this trend continues, it will soon overtake tobacco. This is a tragedy," Gerberding said. "We are looking at this as a wake-up call," suggesting that over 500,000 deaths annually will occur due to obesity.

Now, in light of this scientific information, what is the first thing the House of Representatives does? It rushes to immunity for corporations, which may be appropriate in this particular case; but let us show a little care how we define which cases, so the people who die as a result of negligence and people asleep at the switch and their refusal to do what Congress told them to do are not swept up in this bill.

Mr. WATT. Reclaiming my time, I would just reiterate the points that the gentleman from Washington (Mr. INSLEE) has made and suggest to him and the body and the chairman that it is unfortunate that the Committee on the Judiciary in the House has become the repository of everything essentially political. And so two things quite often result from that: number one, just about every vote is a party-line vote because we know that there is a political reason, not a substantive reason that the legislation is being put forward.

The CHAIRMAN pro tempore (Mr. OSE). The time of the gentleman from North Carolina (Mr. WATT) has expired.

(By unanimous consent, Mr. WATT was allowed to proceed for 2 additional minutes.)

Mr. WATT. Number two, it quite often puts us in a position of thinking, well, this legislation is not serious and it is not going anywhere anyway, and as happened with the legislation that has been referred to on several occasions here, well, the United States Senate, the more deliberative body, will bail us out and save us from ourselves.

I think that is a dangerous slippery slope that our committee has gotten on, and I wish there was some way to pull us back from that so that we would in our committee anticipate, have hearings, and deal with the kind of serious problem that has been identified by the gentleman from Washington (Mr. INSLEE) here; and it would not be just a question of whether this does not apply or may not apply. Maybe under those circumstances the committee and its members would look at what this stuff really says, the bill, look at the drafting of the bill. That is part of our responsibility as legislators, and it is even more a part of our responsibility as members of the Committee on the Judiciary; and I fear that we have failed in that responsibility.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, listening to the gentleman from Washington (Mr. INSLEE) I think shows the differences between those of us who support this legislation and those of us who oppose this legislation.

First, the example that he used relative to the professional baseball player who unfortunately passed away, this bill does not apply to. It is a complete unrelated argument and the gentleman from Florida (Mr. KELLER) has pointed that out. But the gentleman from Washington (Mr. INSLEE) persists on using this as an example. And then the gentleman from Washington (Mr. INSLEE) quotes the story of the press conference that was held yesterday relative to obesity catching up to tobacco as the number one killer of people in the United States of preventable conditions.

Now, the problem with that attitude is that those who espouse it expect the government to take over personal responsibility. The victim always finds someone else to blame for his or her own behavior. And what this bill does is that it says, do not run off and file a lawsuit if you are too fat and you end up getting the diseases associated with obesity. It says, look in the mirror, because you are the one who is to blame. And I have referred twice to a doctor in North Carolina and to the woman who is the president of the American Council on Fitness and Nutrition in saying that if you are obese, do not get a lawyer. See your doctor. See a nutritionist. See a personal trainer. And what this bill does is it will pin the responsibility of those whose job it is to correct the problem to begin with and that is the person who caused the condition which could have been preventable.

Mr. Chairman, I yield to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, to go back to the gentleman from Washington's (Mr. INSLEE) question about the diet drug, I have explained it does not apply. It talks about "a person's consumption of a qualified product." What

is that? That is food under the definition. Food means articles used for food or drink, chewing gum and articles used or components of such article.

The second part of it is of a weight gain, obesity or any health condition that is associated with a person's weight gain. What are the health conditions associated with a person's weight gain? High cholesterol, for example, diabetes, for example, cardiovascular disease. This has nothing to do with diet drugs or labeling of diet drugs or mislabeling. Whatever that person's claim under State law for negligence can go forward and is completely and totally unrelated to this bill.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I want to respond to my friend, the gentleman from Wisconsin's (Mr. SENSENBRENNER) appropriate reference to the idea of accountability because, as I said, we on a bipartisan basis ought to be able to craft a bill that appropriately says if a person has information about their food and they are not personally responsible and become obese due to their own lack of personal responsibility, they should not have a claim. And I am first to say that, or second or third. But there is another personal accountability that the way this bill is drafted ignores. And that is that if the gentleman from Wisconsin (Mr. SENSENBRENNER) and I both voted for a bill that imposed a personal legal responsibility to put on every package of phenadrine or any other product that you can think of that says do not take this if you have history of a stroke, and they do not do this, and this is not a jury-imposed obligation, it is one imposed by the gentleman from Wisconsin (Mr. SENSENBRENNER) and myself, together, and they fail to do it, they ought to be held accountable because accountability and personal responsibility work two ways in our society.

Hold the person who has information about fatty products and they get fat because they are irresponsible, hold them accountable and they have no claim, and this bill should accomplish that end. But for the person who refuses to abide by the mandate of this Congress what to put on food products, they should be held accountable for their lack of responsibility; and this bill clearly obviates that in the language that says "any health condition that is associated with a person's weight gain or obesity." You are cutting off, perhaps unintentionally, claims for injury due to high blood pressure, stroke, cardiac arrest and a whole other group of diseases associated with weight gain.

Frankly, I do not think you are intending to do that. Because if I think that you think your constituents, if somebody fouls up a label and they die due to a stroke, I do not think you intend to cut that off; but you are doing

it. And it is unfortunate, and I wish you would help me fix it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. INSLEE).

The amendment was rejected.

AMENDMENT NO. 1 OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. ACKERMAN:

Section 4(2), insert after the period at the end the following: "However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that manufactures or distributes for human consumption any cattle, sheep, swine, goats, or horses, mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment."

Section 4(6), insert after the period at the end the following: "However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that distributes for human consumption any cattle, sheep, swine, goats, or horses, or mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment."

Mr. ACKERMAN. Mr. Chairman, this amendment has nothing to do with trial lawyers or any other issue that has been basically discussed here today, but it is merely to correct what I think is an inadvertent omission in the bill.

My amendment would expand the definitions in the act to exclude any establishment that manufactures or sells meat from downed animals for human consumption from the protections of the bill.

Mr. Chairman, nearly 3 months have passed since the first mad cow was discovered in the United States and the very first food-related bill has reached the House floor. It is not a bill to protect the American people from mad cow disease and to safeguard the food chain, but it is instead a bill to protect lawsuits against food manufacturers for injuries related to weight gain.

□ 1445

With America's food and meat supply at risk, it is embarrassing that this special interest legislation is our first response to reforming food safety in the United States.

The USDA banned downers from the food supply noting that a non-ambulatory animal was 49 times more likely to have mad cow disease, and they issued a regulation banning it. Those who oppose this amendment will tell us that the amendment is not necessary because the bill before us already says companies that knowingly violate Federal or State law get no protection in the bill and that the USDA banned

downers, but the USDA is not the Congress and a USDA ban on downers is not the law. It is merely a regulation.

So this amendment is needed to make it a law, as was, I believe, intended. Otherwise, slaughterers who knowingly violate the regulation, not a law, get protection from legal action for selling diseased meat from mad cows to someone whose brain may rot some 8 years from now.

In the aftermath of our first discovery of mad cow disease, Americans deserve more from Congress than just a bill preventing frivolous lawsuits which have already been successfully defeated in U.S. courts. Instead, we should be working to assure our constituents that the meat they are eating and feeding to their children is safe and free of mad cow disease.

Personal responsibility, yes, add me to the long line of people who have already said that they believe in it, but people should take personal responsibility from acts that they knowingly take and knowingly violate and voluntarily take.

A person cannot know that they are eating the meat of a sick animal because it is not labeled, and that is another issue. What about personal responsibilities of companies that knowingly sell meat from downers, from diseased animals, too sick to walk to the slaughter? We could take personal responsibility if the corporations took personal responsibility and put labels that said the meat we are eating is from a diseased downed cow or that the meat we are about to eat had a 99 percent chance of never being inspected.

According to a Consumers Union poll, seven in 10 Americans who eat meat say they would pay more for beef to support increased testing in the cattle, and in a Zogby poll, three out of four Americans find it unacceptable to have downed animals in our food system. In fact, the USDA tells us that it was a downed animal from Washington State that proved positive for mad cow disease this past December, and early last year in Canada, the infected mad cow was also a downed animal. That is not a coincidence.

The USDA ban on slaughtering downed animals for human consumption is based on sound science and is nearly identical to the Ackerman-LaTourette amendment that failed just three votes short of passage in this House in the past summer, and that was before the discovery of mad cow disease in the United States. Surely there are three more people in this House who now better understand this issue.

Mr. Chairman, we should not be passing bills to protect the irresponsible establishments that may knowingly sell meat from sick and fallen animals. This amendment would ensure that manufacturers and sellers who ignore the proven health risks from downed animals who ignore the USDA ban, not a law, and sell tainted meat from downed animals to the American pub-

lic, are not protected from lawsuits under this Act. I do not believe that was the intention.

Mr. Chairman, the time is long overdue for this issue. This issue is so ripe it is beginning to get rotten. The American people deserve better than that, Mr. Chairman, and this Congress has the opportunity to act right now to do the right and proper thing to protect all of our constituents from an inadvertency that occurs within this bill.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this bill provides for a specific exemption for adulterated food, and anybody who eats meat which may have been infected with mad cow disease and comes down with the human variant of mad cow disease under this bill will have a cause of action against those who are responsible.

Secondly, if a person eats an adulterated hamburger and becomes seriously ill or perhaps dies of salmonella infection, this bill does not apply. The survivors will have a cause of action against those who provided the adulterated meat in the food chain.

What this bill does apply to is lawsuits that currently can be filed as a result of people eating too much, becoming obese and coming down with the diseases that are associated with obesity. That has nothing to do with downer cattle. It has nothing to do with mad cow disease. It merely means that people who have eaten too much cannot go back at those who have sold or provided a legal product in legal commerce.

Now, I wish that this debate would concentrate on the issues that are posed in this bill. The issue that the gentleman from New York (Mr. ACKERMAN) has brought up is a very serious issue, but that issue is not presented in this bill, and if the gentleman from New York would look at page 6, lines 9 through 12 inclusive of the bill as reported by the Committee on the Judiciary, he would see that exemption there plain as day.

Mr. WATT. Mr. Chairman, I move to strike the last word.

The chairman of our committee may be correct about that part of the bill, but only if the manager's amendment passes, I think would he be correct in what he has said, and at this point, while all of us are in support of the manager's amendment, I guess until this bill passes, I mean, we are still here.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman for yielding, and then again, the distinguished Chairman of the committee, although very knowledgeable, may very well be wrong.

I am holding the page with the very lines that he asked me to refer to, and what it basically does is it refers to

government action, government action against those companies, not individual actions of those people. The government is not getting sick or certainly not getting sicker from eating the meat of diseased animals, but human beings are denied under this, not the government. Human beings who have eaten diseased meat from downed animals have no recourse under the law the way this is written.

Yes, if a person gains weight, and some of us have done that, from eating wrong and indulging a little bit too much, sometimes that evidence is all too evident, but when a person eats the meat of a diseased animal, they have already eaten the evidence, and the case is difficult enough to prove.

People have no protection, no ability to sue, and the gentleman, what he sought to do, if he rereads what he has asked me to do, he will see very, very clearly that they are not exempted from government action, but they are still protected from private citizens bringing private courses of action.

Mr. WATT. Mr. Chairman, reclaiming my time just for a second, because when we are in the middle of a debate and we are trying to figure out the impact of amendments and coordinate them, it becomes a little unclear what is happening.

The original bill did say that an action regarding the sale of a qualified product which is adulterated, as described in section 402 of the Federal Food, Drug and Cosmetic Act was one of the things that was not covered under the base bill. The manager's amendment, however, struck that language and inserted instead, such terms shall not be construed to include an action brought under the Federal Trade Commission Act. It makes no reference to adulterated, I believe. Maybe I am misreading this, but this is one of those things where I think we should take absolutely no chance.

Even if it is redundant in some way, it clearly was not intended and I would hope that my colleagues would just accept the amendment. If it turns out to be redundant, then there are a whole bunch of things in the law that are redundant. That has never been something that we have shied away from. If we want to make something patently clear, we quite often make it redundant. We might say it three, four or five times in the same statute, and this is a point that I think needs to be made patently clear.

I yield back to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Chairman, the distinguished chairman assured us at the outset of his remarks that private citizens would not be precluded from bringing private actions. It is very clear, to at least some of us who read the language of what is in the actual bill, that that is what happens, but given the chairman's genuine assurance that citizens would not be precluded, I fail to see what harm would be done if we specifically say that peo-

ple have a right to bring action against those companies that knowingly and willfully sell meat from diseased fallen animals to the consuming public.

Mr. WATT. Reclaiming my time, the gentleman seems to be shaking his head yes. Maybe that means he is going to accede to the argument. If he is, I am happy to yield to him for that purpose.

Mr. KELLER. Mr. Chairman, it is not worth yielding then. I am not going to accede to this.

Mr. WATT. The gentleman is not there yet. In that case, I hope he will get there, because if there is any ambiguity in this, we need to make sure that it is cleared up, and I think it is very ambiguous at this point. I would rather have a redundant provision in the bill than to have an ambiguous or no provision in the bill.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to ask that my colleagues vote "no" on the Ackerman amendment on three separate grounds.

First, the concept of adulterated food claims are specifically allowed, both under the base bill, where it specifically says adulterated in section 402 of the Federal Food, Drug and Cosmetic Act, and under the manager's amendment, which specifically says that the term "qualified civil liability action" does not include an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act.

Under the Federal Food, Drug and Cosmetic Act, it specifically defines adulterated food in section 342. A food shall not be deemed to be adulterated if it is considered in whole or part of any filthy, putrid or decomposed substance, which, clearly, mad cow disease or e-coli or anything else would be considered.

The second reason to reject this that it does not apply is the language of this particular bill expressly says that we are talking about claims relating to weight gain, obesity or any health condition that is associated with weight gain or obesity: diabetes, high cholesterol, heart disease. It does not have anything to do with mad cow disease. If a person eats a mad cow burger, their claim goes forward. If a person eats an e-coli burger, their claim goes forward.

□ 1500

A final reason. The gentleman says, well, if that is the case, why does the gentleman care about my amendment? Well, let me address that as well.

This amendment would exclude from the protections of the bill any company that uses particular methods to slaughter perfectly healthy animals. For example, if a company during the slaughtering process places cattle in positions, like in a coral, in which they cannot walk unassisted, then these perfectly law-abiding companies that

make meat from perfectly healthy animals would be unfairly excluded from the bill. That is wrong.

Perfectly healthy animals may be unable to stand or walk unassisted during the production process, so this amendment unfairly excludes many law-abiding sellers or perfectly healthy meat from perfectly healthy animals.

For the aforementioned reasons, that it is not needed; and even if it was, it is inappropriate.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I am just wondering whether we have the right manager's amendment, because I do not for the life of me see any of what the gentleman just described as being in the manager's amendment, or in the amendment that I have. Perhaps I have the wrong one.

The manager's amendment I have substitute language that says nothing about adulteration.

Mr. KELLER. Reclaiming my time, Mr. Chairman. The manager's amendment specifically says, "Such terms shall not be construed to exclude an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act." I read the gentleman a section under the Federal Food, Drug and Cosmetic Act dealing with adulterated products.

Mr. WATT. Mr. Chairman, if the gentleman will continue to yield, is it not true that only the government could bring an action there? It would not be an individual action. And would that not be the exact point that the gentleman from New York (Mr. ACKERMAN) is making?

Mr. KELLER. Reclaiming my time once again, Mr. Chairman, I still, on the other grounds I mentioned earlier, it is still not needed because we are not talking about a claim based on weight gain or obesity.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I think the gentleman is overlooking something. The government brings lawsuits for violation of the FDA act. Individuals cannot bring actions under the FDA act. Individuals bring civil cases under the tort laws, and that is what we are talking here.

This bill allows the government to bring a lawsuit. I want Mrs. JONES to be able to bring a lawsuit because her 8-year-old son was just made brain damaged and is going to die in 3 months because he ate a hamburger that somebody knowingly sold him that came from a downed animal that had mad cow disease. They cannot do that under this act because they are not the government.

Mr. KELLER. Mr. Chairman, reclaiming my time, and I respect the gentleman's enthusiasm, but his claim that that would be barred is patently

untrue. Brain damage or death as a result of eating meat from an animal with mad cow disease is not a claim for weight gain or obesity. It is just totally not. It has nothing to do with this.

Mr. ACKERMAN. Mr. Chairman, if the gentleman will continue to yield, I would then ask, Why is the gentleman protecting companies that allow that?

Mr. KELLER. Why do people allow mad cow burgers to be sold? I do not know that any company does knowingly allow mad cow burgers to be served.

Mr. ACKERMAN. We do not prevent it.

Mr. KELLER. Well, that is for another day and another forum. It has nothing to do with this particular bill.

Mr. ACKERMAN. It certainly does. That is exactly the point of this amendment the gentleman is speaking on.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

I want to begin by acknowledging the tenacity of my friend from New York in continuing to attempt to pass what is basically an animal rights question. We have had this discussion many times. It is interesting listening to the debate on this, because as a cosponsor of this base legislation today, I am opposed to frivolous lawsuits. But we make a mistake when we leave the impression with our colleagues that there is a connection between a downed animal and a diseased animal. That in itself is grounds for a frivolous lawsuit, because a downed animal is not necessarily a sick animal. And a downed animal is not necessarily a BSE animal. That is what, if this amendment shall pass, is intended to do, is to make a tie between the two.

Now, I am sure the gentleman knows that a lot has transpired since we had this discussion on the floor last summer. USDA has already banned all downer cattle from the human food supply, period. His amendment, though, includes all livestock; and this would provide the grounds for a lawsuit under the general argument I have heard from too many of my colleagues over here today, that any firm that could be accused of slaughtering a hog that could not walk, and if you have ever raised hogs you know that many times something happens to their body physique that will cause them to just drop and you cannot get them up for any other reason other than just pick them up and carry them. Now, what that would have to do with adulterated food, I do not know; but if this legislation should pass with this amendment in it, that would be grounds for a lawsuit.

It is not fair or just to exclude some manufacturers from these legal protections who are processing food legally and in accordance with USDA regulations simply because some folks have an unrelated animal welfare concern about downer animals. That needs to

be thoroughly understood by my colleagues on the floor. There is no connection whatsoever between a downed animal and a food safety concern, it is only after examination of a downed animal that shows that it is, in fact, a sick animal and should and must be excluded.

And as I said this last summer, any firm that puts a diseased animal knowingly into our food chain should be hung to the nearest tree. That, as the chairman has explained, is what this legislation is all about. It does not take away the right to sue for those things that are so clear.

I conclude by again saying, please, please do not continue to attempt on this bill or any other bill to associate downed animals with diseased animals with BSE. That is not a fair comparison. It is not. There is plenty of attention being given to the issue of animal health and welfare in other arenas. The House Committee on Agriculture has held one hearing on BSE, a field hearing on animal identification was held last Friday in Houston; and we will be holding more hearings on these issues in the months ahead.

No one is more interested in seeing that our food supply remain as safe as it is today. We are making progress. We will continue to make progress. But it is not in the best interest of anyone to continue to make the tie between downers and food safety.

Mr. KING of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand here on the floor of this Congress, and I sometimes think I have passed through the looking glass. I wonder what our Founding Fathers would think if 200-some years later we would be standing here with a piece of legislation on the floor debating about someone ordering a supersized order of french fries and not being able to push themselves away from the table soon enough so that that personal responsibility, so ingrained in the American character, is being pushed off across the entire American society. We might have to add on to every order of french fries if we are not able to protect these food suppliers.

I declined to sign onto this bill, although I support it, for that reason, that if we have to go down the path of protecting individuals and individual professions, we will never get done. I would like to see some blanket reform. But I stand in opposition to the Ackerman amendment.

A couple of points I would make. The Department of Agriculture, on balance, even though they have been more aggressive on downer livestock than I would have cared for, has done an excellent job in response to the BSE. The beef supply in the United States of America is the safest in the world, and the credibility that is there with our producers and the quality of that beef has been established by the confidence, as has been demonstrated by our consumers. That is what has held this market up.

The system we have in place does not need to be shaken up, nor does it need to have the safety of our food supply challenged on the floor of Congress when it has got such an outstanding record. I urge my colleagues to vote "no" on the Ackerman amendment. The purpose of H.R. 339 is to protect the food industry from having to defend themselves from frivolous lawsuits. Baseless lawsuits drain away our economic productivity and interfere with economic growth.

It is important to point out that this bill does not change the fact that anyone legitimately injured by substandard food can sue. However, the Ackerman amendment would open the door for countless groundless suits that could potentially bankrupt our agribusinesses and our farmers.

I believe this amendment is a schematic way to gut the purpose of the entire bill, allowing Americans to continue to avoid taking responsibility for food choices.

With that said, I am opposed to the amendment that defines a downer animal. I am from western Iowa. In my State, we raise about 25 percent of the pork. This amendment would put market hogs in the same category as older cows that are to be tested for BSE; but as clearly stated by the gentleman from Texas, there is no linkage there between a downer animal and a diseased animal.

Market hogs can suffer unintended injuries on the way to market that cause walking problems and thus subject them to this amendment. But these injuries have nothing to do with the safety and quality of the meat we eat. It is also important to note that hogs are not subject to neurological diseases like BSE. So I urge the body to oppose the Ackerman amendment.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I just want to respond to one thing that the gentleman just said who just debated. I, obviously, did not know any of our Founding Fathers personally, so it is hard for me to imagine what would make them turn over in their grave or whatever, as he indicated. But I think they would be a lot more distressed that we were here in this body today saying that State legislators are incompetent to handle these issues in our Federalist form of government than they would likely be incensed with us dealing with this mundane issue having to do with french fries and hamburgers. I think that is what would distress our Founding Fathers. And I regret that the gentleman missed that part of the debate earlier here. I think that is the distressing thing about this debate.

Mr. ANDREWS. Reclaiming my time, Mr. Chairman, I would agree with my friend from North Carolina. I think the

Founding Fathers would be appalled that we were invading the 10th amendment purview of the States to determine these questions and imposing this standard for reasons that are lost on me.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me.

The gentleman from Iowa took it upon himself to speak for the Founding Fathers, which gives me the initiative to speak for the founding mothers. I think they would be aghast to see that this Congress is looking to protect rather prurient corporate interests at the expense of the health and safety of the American people.

It is not about protecting pigs, my colleague. It is about protecting people. And I say to the gentleman from Iowa, as well as the gentleman from Texas, my good friend, who has had many discussions with me on this issue, that the Ackerman amendment does not take away anybody's right to sue. It does not give anybody, as the gentleman asserted, the right to sue. People have a right to sue now. That is the status quo under the American system of jurisprudence. You can bring a lawsuit.

What the Ackerman amendment attempts to do is to prevent what the opposition is trying to do, and that is to provide an escape clause for those corporations who say it is a regulation, not a law; and, therefore, we are exempt from lawsuits.

The bill before us protects those people who knowingly and willfully sell bad meat to good people and says the public cannot sue them. The government can bring action for violating the FDA law, but people cannot sue under this provision.

It is appalling to think of who we are protecting here. I would have thought that those who represent the States that have cattle and pigs, and so many people make an important living from livestock, would understand the magnitude of the damage that they are doing to their own industry and their own constituencies. The world does not believe what they are saying, that the American food is the safest food in the world. You have lost billions of dollars.

The Japanese will not eat American hamburgers, and they are the ones who have been buying it all over the world. Europeans test every cow before they put it on the market. America, with all our wealth, cannot do that to protect our own people, and my colleagues' constituents are paying the price. Billions of dollars you have cost them. Wake up.

The American people do not want to eat this meat. And it is not because they are just a bunch of animal lovers. They will eat meat if they know that it is safe. And it is your job to protect that industry as well as the public. And

the way to do that is to keep the deck honest; to allow people to bring a lawsuit if they think harm was done to them and do not exclude the industry and those who knowingly and willfully sell products that are tainted to the public.

How can one exercise personal responsibility if you do not know the facts? There is no label on your hamburger that says that this hamburger came from a diseased or downed cow. People would not eat it, and you know that. It is a charade that we are playing here. This has nothing to do with trial lawyers. This is a simple amendment that closes an escape clause that I believe, with all due respect, was inadvertently created by an oversight, regardless of your feeling on trial lawyers or anything else.

And I should make it clear, talking about pigs, that my amendment does apply to all livestock, not just cattle.

□ 1515

The gentleman from Texas is right because all livestock, cattle, sheep and pigs can bear the animal form of mad cow that can be passed on.

The CHAIRMAN pro tempore (Mr. BASS). The time of the gentleman from New Jersey (Mr. ANDREWS) has expired.

(On request of Mr. WATT, and by unanimous consent, Mr. ANDREWS was allowed to proceed for 2 additional minutes.)

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, the USDA, which is selectively cited by the gentleman from Texas giving it such great authority, happens to be the authority that says that downed animals are 49 times more likely to have mad cow disease than ambulatory animals. There is the connection. It is not that there is no connection, it is not just that a cow fell and cannot get up and does not have a button to press.

If it is a downed animal, regardless of why it is a downed animal, it is 49 percent more likely to have mad cow disease. Do Members want to play that game of Russian roulette with their children? I do not. I think others really do not, either. If Members want to protect the American people, guarantee that we are playing straight with the American people. It is their interest that we are trying to protect. For the sake of trying to make a few more pennies on the pound, you are jeopardizing the entire industry, as well as the safety of the American public.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, with all due respect, the gentleman from New York keeps talking about BSE and mad cows and downers in the same breath. We are not arguing that today. With all due respect, the argument that the gentleman has just made, we

have stock shows going on all over the country. A young boy or girl has raised this calf. They have shown it. Unfortunately, it breaks its leg. Under the gentleman's thinking, that calf immediately goes to the dump. It is unfit for human consumption no matter what because it is a downer and it cannot walk.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Under this gentleman's thinking, that beloved animal of that little boy who has shown him all around, if he falls and breaks his leg, that animal should be treated humanely and humanely slaughtered which would prevent it from being sold to the public.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. ANDREWS) has expired.

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

The CHAIRMAN pro tempore. Objection is heard from the gentleman from North Carolina (Mr. HAYES).

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. This bill is a good bill and 89 percent of the American people support the concept that somebody should not be able to go to a restaurant, to a food processor or food distributor and be able to sue them because they became obese because of their bad eating habits. Let us get back to the subject at hand.

What is wrong with this amendment is that the gentleman from New York (Mr. ACKERMAN) would completely gut the purpose of the bill. He keeps talking about deliberately and willfully putting into the meat supply diseased animals. We have laws against doing that now. But the gentleman's amendment does not say what he talks about.

The amendment says manufactured or distributed for human consumption. It does not say anything about willfully. It says manufactures or distributes. That means the processing plant, it means the distribution company, it means somebody who imports from another country where we have no control over what their laws are on downed animals. It means the restaurant or cafeteria that distributes the food. It means the grocery store that distributes the food. It does not address the specific concern of one particular instance.

This bill completely covers somebody who may be specifically suing because they ate tainted meat. But all the gentleman from New York is saying is if we have one instance from here on out where meat was sold that came from any downed animal, then that company loses the protection for all time under

this bill. That is outrageous. It obviously completely guts the purpose of this legislation.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, it seems to me the gentleman would have it both ways. First the claim is that my amendment is redundant, the bill already does what it does. Now the gentleman is saying that it guts the bill. How can it be redundant and gut the bill?

Mr. GOODLATTE. Mr. Chairman, reclaiming my time, I never once said that this is redundant. What I said was there is language in the bill that protects an individual from being sued, a business from being sued by an individual, if they ate tainted meat. But the gentleman's amendment would prohibit a company from having the protection of this bill if at any time they ever sold one single downed animal or bought from a company that had processed one downed animal. That covers every single circumstance of every single company that is engaged in food processing in the country.

So obviously the gentleman's amendment, no matter what his underlying intent is, and his underlying intent has nothing to do with obesity, whatever the gentleman's underlying intent is, the effect of his amendment is to kill this bill because it would remove protection that is desired by 89 percent of the American people that we are coming forward with to do today from every single company in the food process because it does not require a willful and malicious intent; it just says all you had to do was distribute it once in the entire history of your company from this day forward, and you lose that protection under the law.

This is a foolish, ridiculous amendment, and I urge my colleagues to reject it. The purpose of the legislation before us is to protect the food industry from having to defend themselves from frivolous obesity-related lawsuits. No one has ever argued that downed animals caused obesity differently than non-downed animals.

This bill does not in any way relate to the issues of food safety, animal health or animal welfare. Products that do not meet the standards of our laws relating to food safety, animal health or animal welfare will not be protected by this legislation.

Mr. Chairman, the bill before us today is a very carefully thought out effort to address the growing problem of frivolous and costly lawsuits that do nothing but harm American consumers. These lawsuits have the consequence of adding unnecessary cost to the food industry and consumers to the sole benefit of trial lawyers.

The Ackerman amendment has nothing to do with this issue. It simply creates confusion about who should be afforded protection from obesity-related lawsuits. Because it is so loosely draft-

ed, so carelessly drafted, not addressing anything to do with malicious or willful action, but anybody who manufactures or distributes, any restaurant, any grocery store, any wholesale business, any processor who has had any downed animal at any time, that business would, for all time, be denied the protection of this legislation. I urge my colleagues to oppose this outrageous amendment.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I am trying not to be insulted by being accused of having a foolish and ridiculous amendment. I am sure the gentleman is insulting the amendment.

Mr. GOODLATTE. I am referring to a very foolish amendment, the gentleman is correct.

Mr. ACKERMAN. Let me suggest to your very sanctimonious self that it was the chairman of this very committee that said my amendment was redundant. The author of the bill, rather, who said that the amendment was redundant, that what I am trying to do is already in the bill.

Mr. GOODLATTE. Mr. Chairman, I reclaim my time.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. GOODLATTE) has expired.

The question is on the amendment offered by the gentleman from New York (Mr. ACKERMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ACKERMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. ACKERMAN) will be postponed.

The point of no quorum is considered withdrawn.

#### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 6 offered by the gentleman from Virginia (Mr. SCOTT); amendment No. 7 offered by the gentleman from North Carolina (Mr. WATT); amendment No. 2 offered by the gentleman from New Jersey (Mr. ANDREWS); and amendment No. 1 offered by the gentleman from New York (Mr. ACKERMAN).

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment of-

ferred by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 241, not voting 15, as follows:

[Roll No. 48]

#### AYES—177

Abercrombie	Hoeffel	Neal (MA)
Ackerman	Holt	Oberstar
Allen	Honda	Obey
Andrews	Hooley (OR)	Olver
Baca	Hoyer	Ortiz
Baird	Inslee	Owens
Baldwin	Israel	Pallone
Becerra	Jackson (IL)	Pascarella
Berman	Jackson-Lee	Pastor
Berry	(TX)	Paul
Bishop (GA)	Jefferson	Payne
Bishop (NY)	Johnson, E. B.	Pelosi
Blumenauer	Jones (OH)	Pomeroy
Boswell	Kanjorski	Price (NC)
Boucher	Kaptur	Rahall
Boyd	Kennedy (RI)	Rangel
Brady (PA)	Kildee	Reyes
Brown (OH)	Kilpatrick	Rothman
Brown, Corrine	Kind	Roybal-Allard
Capps	Klecza	Rush
Capuano	Lampson	Ryan (OH)
Cardin	Langevin	Sabo
Carson (IN)	Lantos	Sánchez, Linda
Carson (OK)	Larsen (WA)	T.
Case	Larson (CT)	Sanchez, Loretta
Chandler	Leach	Sanders
Clay	Lee	Sandlin
Clyburn	Levin	Schakowsky
Costello	Lewis (GA)	Schiff
Crowley	Lipinski	Scott (VA)
Cummings	Lofgren	Serrano
Davis (AL)	Lowey	Sherman
Davis (CA)	Lynch	Skelton
Davis (FL)	Majette	Slaughter
DeFazio	Maloney	Smith (WA)
DeGette	Markey	Snyder
Delahunt	Marshall	Solis
DeLauro	Matsui	Spratt
Deutsch	McCarthy (MO)	Stark
Dicks	McCarthy (NY)	Strickland
Dingell	McCollum	Stupak
Doggett	McDermott	Tauscher
Doyle	McGovern	Thompson (CA)
Emanuel	McIntyre	Thompson (MS)
Engel	McNulty	Tierney
Eshoo	Meehan	Towns
Etheridge	Meek (FL)	Turner (TX)
Evans	Meeks (NY)	Udall (NM)
Farr	Menendez	Van Hollen
Filner	Michaud	Velázquez
Ford	Millender-	Visclosky
Frost	McDonald	Waters
Gonzalez	Miller (NC)	Watson
Green (TX)	Miller, George	Watt
Grijalva	Mollohan	Waxman
Gutierrez	Moore	Weiner
Harman	Moran (VA)	Wexler
Hastings (FL)	Murtha	Woolsey
Hill	Nadler	Wu
Hinchey	Napolitano	Wynn

#### NOES—241

Aderholt	Bishop (UT)	Burgess
Akin	Blackburn	Burns
Alexander	Blunt	Burr
Bachus	Boehlert	Burton (IN)
Baker	Boehner	Buyer
Ballenger	Bonilla	Calvert
Barrett (SC)	Bonner	Camp
Bartlett (MD)	Bono	Cannon
Barton (TX)	Boozman	Cantor
Bass	Bradley (NH)	Capito
Beauprez	Brady (TX)	Cardoza
Bereuter	Brown (SC)	Carter
Biggert	Brown-Waite,	Castle
Bilirakis	Ginny	Chabot

Chocola	Houghton	Portman
Coble	Hulshof	Pryce (OH)
Cole	Hunter	Putnam
Collins	Hyde	Quinn
Cooper	Isakson	Radanovich
Cox	Issa	Ramstad
Cramer	Istook	Regula
Crane	Jenkins	Rehberg
Crenshaw	John	Renzi
Cubin	Johnson (CT)	Reynolds
Culberson	Johnson (IL)	Rogers (AL)
Cunningham	Johnson, Sam	Rogers (KY)
Davis (TN)	Jones (NC)	Rogers (MI)
Davis, Jo Ann	Keller	Rohrabacher
Davis, Tom	Kelly	Ros-Lehtinen
Deal (GA)	Kennedy (MN)	Ross
DeLay	King (IA)	Royce
DeMint	King (NY)	Ruppersberger
Diaz-Balart, L.	Kingston	Ryan (WI)
Diaz-Balart, M.	Kirk	Ryun (KS)
Dooley (CA)	Kline	Saxton
Doolittle	Knollenberg	Schrock
Dreier	Kolbe	Scott (GA)
Duncan	LaHood	Sensenbrenner
Dunn	Latham	Sessions
Edwards	LaTourette	Shadegg
Ehlers	Lewis (CA)	Shaw
Emerson	Lewis (KY)	Shays
English	Linder	Sherwood
Everett	LoBiondo	Shimkus
Feeney	Lucas (KY)	Shuster
Ferguson	Lucas (OK)	Simmons
Flake	Manzullo	Simpson
Foley	Matheson	Smith (MI)
Forbes	McCotter	Smith (NJ)
Fossella	McCrery	Smith (TX)
Franks (AZ)	McHugh	Souder
Frelinghuysen	McInnis	Stearns
Gallegly	McKeon	Sullivan
Garrett (NJ)	Mica	Sweeney
Gerlach	Miller (MI)	Tancred
Gibbons	Miller, Gary	Tanner
Gilchrest	Moran (KS)	Taylor (MS)
Gillmor	Murphy	Taylor (NC)
Gingrey	Musgrave	Terry
Goode	Myrick	Thomas
Goodlatte	Nethercutt	Thornberry
Gordon	Neugebauer	Toomey
Goss	Ney	Turner (OH)
Granger	Northup	Upton
Graves	Norwood	Vitter
Green (WI)	Nunes	Walden (OR)
Greenwood	Nussle	Walsh
Gutknecht	Osborne	Wamp
Hall	Ose	Weldon (FL)
Harris	Otter	Weldon (PA)
Hart	Oxley	Weller
Hastings (WA)	Pearce	Whitfield
Hayes	Pence	Wilson (NM)
Hayworth	Peterson (MN)	Wilson (SC)
Hefley	Peterson (PA)	Wolf
Hensarling	Petri	Wynn
Henger	Pickering	Young (AK)
Hobson	Pitts	Young (FL)
Hoekstra	Platts	
Holden	Pombo	
Hostettler	Porter	

## NOT VOTING—15

Ballance	Fattah	Miller (FL)
Bell	Frank (MA)	Rodriguez
Berkley	Gephardt	Tauzin
Conyers	Hinojosa	Udall (CO)
Davis (IL)	Kucinich	Wicker

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1550

Messrs. FORBES, PEARCE, JENKINS, MICA, CANNON, PLATTS and RUPPERSBERGER, and Mrs. MILLER of Michigan and Mrs. BIGGERT changed their vote from “aye” to “no.”

Messrs. NEAL of Massachusetts, STUPAK, EVANS, MEEK of Florida, DAVIS of Florida, and Ms. KAPTUR changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 7 OFFERED BY MR. WATT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote. The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 158, noes 261, not voting 14, as follows:

[Roll No. 49]

AYES—158

Abercrombie	Holt	Obey
Ackerman	Honda	Oliver
Allen	Hoyer	Ortiz
Andrews	Inslee	Owens
Baca	Israel	Pallone
Baldwin	Jackson (IL)	Pascarell
Becerra	Jackson-Lee	Pastor
Berman	(TX)	Paul
Bishop (GA)	Jefferson	Payne
Bishop (NY)	Johnson, E. B.	Pelosi
Blumenauer	Jones (OH)	Price (NC)
Boswell	Kanjorski	Rangel
Brady (PA)	Kaptur	Reyes
Brown (OH)	Kennedy (RI)	Ross
Brown, Corrine	Kildee	Rothman
Capps	Kilpatrick	Roybal-Allard
Capuano	Kleczka	Rush
Cardin	Lampson	Ryan (OH)
Carson (IN)	Langevin	Sabo
Case	Lantos	Sanchez, Linda
Chandler	Larson (CT)	T.
Clay	Lee	Sanchez, Loretta
Clyburn	Levin	Sanders
Costello	Lewis (GA)	Sandlin
Crowley	Lipinski	Schakowsky
Cummings	Lofgren	Schiff
Davis (CA)	Lowey	Scott (VA)
Davis (FL)	Lynch	Serrano
DeFazio	Majette	Sherman
DeGette	Maloney	Skelton
Delahunt	Markey	Slaughter
DeLauro	Matsui	Solis
Deutsch	McCarthy (MO)	Stark
Dingell	McCarthy (NY)	Strickland
Doggett	McCollum	Stupak
Doyle	McDermott	Thompson (CA)
Emanuel	McGovern	Thompson (MS)
Engel	McIntyre	
Eshoo	McNulty	
Etheridge	Meehan	
Evans	Meek (FL)	
Farr	Meeks (NY)	
Fattah	Menendez	
Filner	Millender-McDonald	
Ford	Miller (NC)	
Frost	Miller, George	
Gonzalez	Mollohan	
Green (TX)	Moore	
Grijalva	Murtha	
Gutierrez	Nadler	
Hastings (FL)	Napolitano	
Hill	Neal (MA)	
Hinche	Oberstar	
Hoeffel		

## NOES—261

Aderholt	Berry	Boyd
Akin	Biggart	Bradley (NH)
Alexander	Bilirakis	Brady (TX)
Bachus	Bishop (UT)	Brown (SC)
Baird	Blackburn	Brown-Waite,
Baker	Blunt	Ginny
Ballenger	Boehlert	Burgess
Barrett (SC)	Boehner	Burns
Bartlett (MD)	Bonilla	Burr
Barton (TX)	Bonner	Burton (IN)
Bass	Bono	Buyer
Beauprez	Boozman	Calvert
Bereuter	Boucher	Camp

Cannon	Hoekstra	Pombo
Cantor	Holden	Pomeroy
Capito	Hooley (OR)	Porter
Cardoza	Hostettler	Portman
Carson (OK)	Houghton	Pryce (OH)
Carter	Hulshof	Putnam
Castle	Hunter	Quinn
Chabot	Hyde	Radanovich
Chocola	Isakson	Rahall
Coble	Issa	Ramstad
Cole	Istook	Regula
Collins	Jenkins	Rehberg
Cooper	John	Renzi
Cox	Johnson (CT)	Reynolds
Cramer	Johnson (IL)	Rogers (AL)
Crane	Johnson, Sam	Rogers (KY)
Crenshaw	Jones (NC)	Rogers (MI)
Cubin	Keller	Rohrabacher
Culberson	Kelly	Ros-Lehtinen
Cunningham	Kennedy (MN)	Royce
Davis (AL)	Kind	Ruppersberger
Davis (TN)	King (IA)	Ryan (WI)
Davis, Jo Ann	King (NY)	Ryun (KS)
Davis, Tom	Kingston	Saxton
Deal (GA)	Kirk	Schrock
DeLay	Kline	Scott (GA)
DeMint	Knollenberg	Sensenbrenner
Diaz-Balart, L.	Kolbe	Sessions
Diaz-Balart, M.	LaHood	Shadegg
Dicks	Larsen (WA)	Shaw
Dooley (CA)	Latham	Shays
Doolittle	LaTourette	Sherwood
Dreier	Leach	Shimkus
Duncan	Lewis (CA)	Shuster
Dunn	Lewis (KY)	Simmons
Edwards	Linder	Simpson
Ehlers	LoBiondo	Smith (MI)
Emerson	Lucas (KY)	Smith (NJ)
English	Lucas (OK)	Smith (TX)
Everett	Manzullo	Smith (WA)
Feeney	Marshall	Souder
Ferguson	Matheson	Spratt
Flake	McCotter	Stearns
Foley	McCrery	Stenholm
Forbes	McHugh	Sullivan
Fossella	McInnis	Sweeney
Franks (AZ)	McKeon	Tancred
Frelinghuysen	Mica	Tanner
Gallegly	Michaud	Tauscher
Garrett (NJ)	Miller (MI)	Taylor (MS)
Gerlach	Miller, Gary	Taylor (NC)
Gibbons	Moran (KS)	Terry
Gilchrest	Moran (VA)	Thomas
Gillmor	Murphy	Thornberry
Gingrey	Musgrave	Tiahrt
Goode	Myrick	Tiberi
Goodlatte	Nethercutt	Toomey
Gordon	Neugebauer	Turner (OH)
Goss	Ney	Upton
Granger	Northup	Vitter
Graves	Norwood	Walden (OR)
Green (WI)	Nunes	Walsh
Greenwood	Nussle	Wamp
Gutknecht	Osborne	Weldon (FL)
Hall	Ose	Weldon (PA)
Harman	Otter	Weller
Harris	Oxley	Whitfield
Hart	Pearce	Wilson (NM)
Hastings (WA)	Pence	Wilson (SC)
Hayes	Peterson (MN)	Wolf
Hayworth	Peterson (PA)	Wynn
Hefley	Petri	Young (AK)
Hensarling	Pickering	Young (FL)
Henger	Pitts	
Hobson	Platts	

## NOT VOTING—14

Ballance	Frank (MA)	Rodriguez
Bell	Gephardt	Tauzin
Berkley	Hinojosa	Udall (CO)
Conyers	Kucinich	Wicker
Davis (IL)	Miller (FL)	

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1557

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 2 OFFERED BY MR. ANDREWS

The CHAIRMAN pro tempore. The pending business is the demand for a

recorded vote on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 129, noes 285, not voting 19, as follows:

[Roll No. 50]

## AYES—129

Abercrombie	Holt	Napolitano
Ackerman	Honda	Neal (MA)
Allen	Israel	Oberstar
Andrews	Jackson (IL)	Obey
Baldwin	Jackson-Lee	Oliver
Ballance	(TX)	Owens
Becerra	Jefferson	Pallone
Bishop (NY)	Johnson, E. B.	Pascarell
Blumenauer	Jones (OH)	Pastor
Brady (PA)	Kanjorski	Payne
Brown (OH)	Kaptur	Pelosi
Brown, Corrine	Kennedy (RI)	Rahall
Capps	Kildee	Rangel
Carson (IN)	Kilpatrick	Rothman
Case	Klecza	Roybal-Allard
Clyburn	Lampson	Rush
Costello	Langevin	Ryan (OH)
Crowley	Lantos	Sabo
Cummings	Larson (CT)	Sánchez, Linda T.
Davis (CA)	Lee	Sánchez, Loretta T.
DeFazio	Lewis (GA)	Sanders
DeGette	Lipinski	Schakowsky
Delahunt	Lofgren	Schiff
DeLauro	Lowey	Scott (VA)
Deutsch	Lynch	Serrano
Dingell	Majette	Sherman
Doggett	Maloney	Slaughter
Doyle	Markey	Solis
Emanuel	Matsui	Stark
Engel	McCarthy (MO)	Stupak
Eshoo	McCarthy (NY)	Thompson (CA)
Evans	McCollum	Thompson (MS)
Farr	McDermott	Tierney
Fattah	McGovern	Udall (NM)
Filner	McIntyre	Udall (NM)
Ford	McNulty	Velázquez
Frost	Meehan	Visclosky
Green (TX)	Meek (FL)	Waters
Grijalva	Millender-	Watson
Gutierrez	McDonald	Watt
Harman	Miller, George	Waxman
Hastings (FL)	Mollohan	Weiner
Hinchey	Murtha	Wexler
Hoeffel	Nadler	Wu

## NOES—285

Aderholt	Bono	Chabot
Akin	Boozman	Chandler
Alexander	Boswell	Chocola
Baca	Boucher	Clay
Bachus	Boyd	Coble
Baird	Bradley (NH)	Cole
Baker	Brady (TX)	Collins
Ballenger	Brown (SC)	Cooper
Barrett (SC)	Brown-Waite,	Cox
Bartlett (MD)	Ginny	Cramer
Barton (TX)	Burgess	Crane
Bass	Burns	Crenshaw
Beauprez	Burr	Cubin
Bereuter	Burton (IN)	Culberson
Berman	Buyer	Cunningham
Berry	Calvert	Davis (AL)
Biggart	Camp	Davis (FL)
Bilirakis	Cannon	Davis (TN)
Bishop (GA)	Cantor	Davis, Jo Ann
Bishop (UT)	Capito	Davis, Tom
Blackburn	Capuano	Deal (GA)
Blunt	Cardin	DeLay
Boehlert	Cardoza	DeMint
Boehner	Carson (OK)	Diaz-Balart, L.
Bonilla	Carter	Diaz-Balart, M.
Bonner	Castle	Dicks

Dooley (CA)	Kingston	Renzi
Doolittle	Kirk	Reyes
Dreier	Kline	Reynolds
Duncan	Knollenberg	Rogers (AL)
Dunn	Kolbe	Rogers (KY)
Edwards	LaHood	Rogers (MI)
Ehlers	Larsen (WA)	Rohrabacher
Emerson	Latham	Ros-Lehtinen
English	LaTourette	Ross
Etheridge	Leach	Royce
Everett	Levin	Ruppersberger
Feeney	Lewis (CA)	Ryan (WI)
Ferguson	Lewis (KY)	Ryun (KS)
Flake	Linder	Sandlin
Foley	LoBiondo	Saxton
Forbes	Lucas (KY)	Schrock
Fossella	Lucas (OK)	Scott (GA)
Franks (AZ)	Manzullo	Sensenbrenner
Frelinghuysen	Marshall	Sessions
Gallegly	Matheson	Shadegg
Garrett (NJ)	McCotter	Shaw
Gerlach	McCrery	Shays
Gibbons	McHugh	Sherwood
Gilchrest	McInnis	Shimkus
Gillmor	McKeon	Shuster
Gingrey	Meeks (NY)	Simmons
Gonzalez	Menendez	Simpson
Goode	Mica	Skelton
Goodlatte	Michaud	Smith (MI)
Gordon	Miller (MI)	Smith (NJ)
Goss	Miller (NC)	Smith (TX)
Granger	Miller, Gary	Smith (WA)
Graves	Moore	Snyder
Green (WI)	Moran (KS)	Spratt
Greenwood	Moran (VA)	Stearns
Gutknecht	Murphy	Stenholm
Hall	Musgrave	Sullivan
Harris	Myrick	Sweeney
Hart	Nethercutt	Tancredo
Hastings (WA)	Neugebauer	Tanner
Hayes	Ney	Tauscher
Hayworth	Northup	Taylor (MS)
Hefley	Norwood	Taylor (NC)
Hensarling	Nunes	Terry
Herger	Nussle	Thomas
Hill	Ortiz	Thornberry
Hobson	Osborne	Tiahrt
Hoekstra	Ose	Tiberi
Holden	Otter	Toomey
Hooley (OR)	Oxley	Towns
Hostettler	Paul	Turner (OH)
Houghton	Pearce	Turner (TX)
Hoyer	Pence	Upton
Hulshof	Peterson (MN)	Vitter
Hunter	Peterson (PA)	Walden (OR)
Hyde	Petri	Walsh
Inslee	Pickering	Wamp
Isakson	Pitts	Waxman
Issa	Platts	Weldon (FL)
Jenkins	Pombo	Weldon (PA)
John	Pomeroy	Weller
Johnson (CT)	Porter	Whitfield
Johnson (IL)	Portman	Wilson (NM)
Johnson, Sam	Price (NC)	Wilson (SC)
Keller	Pryce (OH)	Wolf
Kelly	Putnam	Wynn
Kennedy (MN)	Quinn	Young (AK)
Kind	Ramstad	Young (FL)
King (IA)	Regula	
King (NY)	Rehberg	

## NOT VOTING—19

Bell	Istook	Strickland
Berkley	Jones (NC)	Tauzin
Conyers	Kucinich	Udall (CO)
Davis (IL)	Miller (FL)	Wicker
Frank (MA)	Radanovich	Woolsey
Gephardt	Rodriguez	
Hinojosa	Souder	

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1604

Mrs. KELLY changed her vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 1 OFFERED BY MR. ACKERMAN

The CHAIRMAN pro tempore. The pending business is the demand for a

recorded vote on the amendment offered by the gentleman from New York (Mr. ACKERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 141, noes 276, not voting 16, as follows:

[Roll No. 51]

## AYES—141

Abercrombie	Honda	Napolitano
Ackerman	Hooley (OR)	Neal (MA)
Allen	Hoyer	Olver
Andrews	Inslee	Owens
Baca	Israel	Pallone
Baldwin	Jackson (IL)	Pascarell
Becerra	Jackson-Lee	Payne
Berman	(TX)	Pelosi
Bishop (NY)	Jefferson	Price (NC)
Blumenauer	Johnson, E. B.	Rahall
Brady (PA)	Jones (OH)	Rangel
Brown (OH)	Kanjorski	Rothman
Brown, Corrine	Kaptur	Roybal-Allard
Capps	Kelly	Rush
Capuano	Kennedy (RI)	Ryan (OH)
Cardin	Kildee	Sabo
Carson (IN)	Kilpatrick	Sánchez, Linda T.
Case	Klecza	Sánchez, Loretta T.
Clay	Lampson	Sanders
Clyburn	Langevin	Schakowsky
Costello	Lantos	Schiff
Crowley	Larson (CT)	Scott (VA)
Cummings	Lee	Serrano
Davis (CA)	Levin	Sherman
Davis (FL)	Lewis (GA)	Slaughter
DeFazio	Lipinski	Snyder
DeGette	Lofgren	Solis
Delahunt	Lowey	Stark
DeLauro	Maloney	Stupak
Deutsch	Markey	Tancredo
Dicks	Matsui	Tauscher
Dingell	McCarthy (MO)	Taylor (MS)
Doggett	McCarthy (NY)	Thompson (CA)
Doyle	McCollum	Tierney
Engel	McDermott	Towns
Eshoo	McGovern	Udall (NM)
Evans	McNulty	Van Hollen
Farr	Meehan	Velázquez
Fattah	Meek (FL)	Visclosky
Filner	Meeks (NY)	Waters
Green (TX)	Michaud	Watson
Grijalva	Millender-	Watt
Gutierrez	McDonald	Waxman
Harman	Miller, George	Weiner
Hastings (FL)	Mollohan	Wexler
Hinchey	Moore	Woolsey
Hoeffel	Murtha	Wu
Holt	Nadler	

## NOES—276

Aderholt	Boehner	Capito
Akin	Bonilla	Cardoza
Alexander	Bonner	Carson (OK)
Bachus	Bono	Carter
Baird	Boozman	Castle
Baker	Boswell	Chabot
Ballance	Boucher	Chandler
Ballenger	Boyd	Chocola
Barrett (SC)	Bradley (NH)	Coble
Bartlett (MD)	Brady (TX)	Cole
Barton (TX)	Brown (SC)	Collins
Bass	Brown-Waite,	Cooper
Beauprez	Ginny	Cox
Bereuter	Burgess	Cramer
Berry	Burns	Crane
Biggart	Burr	Crenshaw
Bilirakis	Burton (IN)	Cubin
Bishop (GA)	Buyer	Culberson
Bishop (UT)	Calvert	Cunningham
Blackburn	Camp	Davis (AL)
Blunt	Cannon	Davis (TN)
Boehlert	Cantor	Davis, Jo Ann

Davis, Tom	Jones (NC)	Putnam
Deal (GA)	Keller	Quinn
DeLay	Kennedy (MN)	Radanovich
DeMint	Kind	Ramstad
Diaz-Balart, L.	King (IA)	Regula
Diaz-Balart, M.	King (NY)	Rehberg
Dooley (CA)	Kingston	Renzi
Doolittle	Kirk	Reyes
Dreier	Kline	Reynolds
Duncan	Knollenberg	Rogers (AL)
Dunn	Kolbe	Rogers (KY)
Edwards	LaHood	Rogers (MI)
Ehlers	Larsen (WA)	Rohrabacher
Emanuel	Latham	Ros-Lehtinen
Emerson	LaTourette	Ross
English	Leach	Royce
Etheridge	Lewis (CA)	Ruppersberger
Everett	Lewis (KY)	Ryan (WI)
Feeney	Linder	Ryun (KS)
Ferguson	LoBiondo	Sandlin
Flake	Lucas (KY)	Saxton
Foley	Lucas (OK)	Schrock
Forbes	Lynch	Scott (GA)
Ford	Majette	Sensenbrenner
Fossella	Manzullo	Sessions
Franks (AZ)	Marshall	Shadegg
Frelinghuysen	Matheson	Shaw
Frost	McCotter	Shays
Gallely	McCrery	Sherwood
Garrett (NJ)	McHugh	Shimkus
Gerlach	McInnis	Shuster
Gibbons	McIntyre	Simmons
Gilchrest	McKeon	Skelton
Gillmor	Menendez	Smith (MI)
Gingrey	Mica	Smith (TX)
Gonzalez	Miller (MI)	Smith (WA)
Goode	Miller (NC)	Souder
Goodlatte	Miller, Gary	Spratt
Gordon	Moran (KS)	Stearns
Goss	Moran (VA)	Stenholm
Granger	Murphy	Strickland
Graves	Musgrave	Sullivan
Green (WI)	Myrick	Sweeney
Greenwood	Nethercutt	Tanner
Gutknecht	Neugebauer	Taylor (NC)
Hall	Ney	Terry
Harris	Northup	Thomas
Hart	Norwood	Thompson (MS)
Hastings (WA)	Nunes	Thornberry
Hayes	Nussle	Tiahrt
Hayworth	Oberstar	Tiberi
Hefley	Obey	Toomey
Hensarling	Ortiz	Turner (OH)
Herger	Osborne	Turner (TX)
Hill	Ose	Upton
Hobson	Otter	Vitter
Hoekstra	Pastor	Walden (OR)
Holden	Paul	Walsh
Hostettler	Pearce	Wamp
Houghton	Pence	Weldon (FL)
Hulshof	Peterson (MN)	Weldon (PA)
Hunter	Peterson (PA)	Weller
Hyde	Petri	Whitfield
Isakson	Pickering	Wilson (NM)
Issa	Pitts	Wilson (SC)
Istook	Platts	Wolf
Jenkins	Pombo	Wynn
John	Pomeroy	Young (AK)
Johnson (CT)	Porter	Young (FL)
Johnson (IL)	Portman	
Johnson, Sam	Pryce (OH)	

## NOT VOTING—16

Bell	Hinojosa	Smith (NJ)
Berkley	Kucinich	Tauzin
Conyers	Miller (FL)	Udall (CO)
Davis (IL)	Oxley	Wicker
Frank (MA)	Rodriguez	
Gephardt	Simpson	

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1612

Mr. FORD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 4 OFFERED BY MR. LAMPSON

Mr. LAMPSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. LAMPSON:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

**SEC. 5. ACTIONS BY YOUNG CHILDREN AGAINST SELLERS THAT MARKET TO YOUNG CHILDREN.**

Notwithstanding any other provision of this Act, this Act shall not apply to an action brought by, or on behalf of, a person injured at or before the age of 8, against a seller that, as part of a chain of outlets at least 20 of which do business under the same trade name (regardless of form of ownership of any outlet), markets qualified products to minors at or under the age of 8.

Mr. LAMPSON. Mr. Chairman, today the House is continuing to consider H.R. 339, the Personal Responsibility in Food Consumption Act. I oppose the core of this bill because I believe that the constitutional right to seek redress in our courts as guaranteed by the seventh amendment is inviolate and the right to civil justice is a fundamental element of any stable and just society.

Time and time again, we see measures on the House floor designed to immunize special interests from the only means that citizens have to hold certain companies and corporations accountable. And today's bill is no exception.

So that is why I offer an amendment to the bill to protect children 8 years of age and younger. This very narrow amendment targets only those fast-food chain restaurants who aggressively market their products to the youngest segments of our society.

As the chair of the Missing and Exploited Children's Caucus and, more importantly, as a concerned grandparent, I have always fought to protect our children's interests. And as such, I want to make sure that children learn how to make informed nutritional choices. Part of that process requires us to hold those who treat children as an advertising demographic accountable, especially when children's health is at stake.

Mr. Chairman, today the younger age group faces a litany of health issues that generations before them did not face. Heart disease, high blood pressure, hypertension, joint problems, asthma, diabetes and cancer are on the increase with these children. And a steady diet of fast food is the absolute last thing that they need. Unfortunately, fast-food restaurants are bombarding our children with advertisements that encourage overconsumption of unhealthy eating choices.

The average child views 20,000 television commercials each year. That is about 55 commercials a day. And more disturbingly, the commercials for candies, snacks, sugared cereals and other foods with poor nutritional content far, far outnumber commercials for more healthy food choices.

Every working parent knows how aggressive these marketing campaigns

can be, especially when they tie in incentives such as playgrounds and contests and clubs and games and free toys and movies and television and sports league-related merchandise. Well, how can we expect our children freely to say no to fast food when it is, no pun intended, pushed down their throats in this manner day in and day out?

Well, one child in my district who is 8 and who suffers from juvenile diabetes faces a far greater battle to maintain his fragile health than do most children. He already faces a lifetime of increased health and nutritional expenses. And I do not want him and other children like him to fall prey to the marketing practices of the fast-food industry.

□ 1615

Working families have enough to contend with through fighting to keep their jobs and providing a good education for their children, so they should not have to take any even more steps to protect their children from industry and advertizing practices that are running rampant pants. Should this unfortunate set of circumstances become reality our children, must be able to seek redress in our courts and in our justice system.

Mr. Chairman, studies indicate that at age 8 and under, children are more susceptible to such advertising, and even less likely to understand the purpose of this advertising. So that is why so much of this advertising is done during the cartoon hour, and it is no coincidence that major fast food chains routinely run their advertisements during this time. The tragic results of this marketing of fast food is a nation of overweight children who remain vulnerable to a host of medical conditions that they should not have to worry about during their formative years.

It is for these reasons that this amendment to H.R. 339 is necessary. If we totally foreclose any opportunity, any opportunity to hold this industry accountable, especially for our youngest children, we will only see an increase in childhood obesity and other related problems. It is time we demand responsibility on the part of the fast food industry, it is our responsibility as lawmakers to protect those who cannot protect themselves. My amendment offers that safety net for our children. And for these and many other reasons, we should support it today. I ask my colleagues to join me in supporting this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment will do exactly the opposite of what the gentleman from Texas (Mr. LAMPSON) says it will do, because what the amendment says is that it tells parents that if they are not responsible, they can become millionaires. The amendments exploit children and it discourages parents from exercising parental

responsibility at all times. It is the parents that buy the Happy Meals. It is the parents that take their kids to the fast food chain. And few kids under 8 either have their own money to buy the Happy Meals or can make it to the fast food outlet without their parents taking them down there.

So if this amendment is adopted and little Johnnie or little Mary become big Johnnie and real big Mary before the age of 8, then their parents can sue and hopefully break the bank, according to what their lawyers tell them.

The Los Angeles Times says this is wrong. And one of their editorials they said, in part, "If kids are chowing down to excess on junk food, though, aren't their parents responsible for cracking down?"

The gentleman from Texas' (Mr. LAMPSON) amendment says, no, they are not. And as a matter of fact, we will give those parents the opportunity of monetary enrichment if they buy their kids far too many happy meals and do not just say no when Johnnie and Mary pull on their parents' shirt tails and say, let us go down to McDonalds or the Burger King or one of these other fast food outlets.

Now, even the best obesity doctors realize this amendment is another sad assault on the concept of parental responsibility. Dr. Jana Clauer, a fellow at the New York City Obesity Research Center of St. Luke's Roosevelt Hospital has said, "I just wonder where were the parents when the kids were having those McDonalds breakfasts every morning. Were they incapable of pouring a bowl of cereal and some milk?"

Well, this amendment tells those parents that if they do not pour that bowl of cereal and put some milk on the top of it and ruin their kids health as a result, if those kids are under 8 they can go off to court because it was not their fault. Vote this amendment down.

Mr. WATT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, the words that the gentleman of Wisconsin (Mr. SENSENBRENNER) just spoke indicate that we would give the opportunity for someone to become wealthy in the event that the child became fat. Well, we are only asking that if a person becomes injured from eating the foods that are not healthy for them, and I also know that studies reviewed in a task force report indicate that the product preferences can indeed affect children's product purchase requests and we are bombarded with television ads. I know that those children are not so much with their parents when they are making the decision to go to McDonalds or whatever else, these fast food chains, but they are sitting in front of their television sets and the parents are there with them.

Much like what happened, and I believe the gentleman would probably agree that he does not like what we saw during the Superbowl when part of

Janet Jackson's costume came off. Just like the child who was sitting in front of that TV did not have a choice of what he or she saw then, what choice do they have when they are watching cartoons and repeatedly time after time after time after time the same commercial that puts sugar in front of them over and over again continues to happen. Does it have an effect on their requests when they go to a grocery store or to a fast food restaurant? You better believe it does, and that is what this amendment is attempting to do. It gives them the opportunity to protect themselves from those injuries only.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask my colleagues to vote no on the Lampson amendment for at least three reasons. First, one of the cases involving McDonalds was brought by a 400-pound child. And every single meal, breakfast, lunch and dinner, that parent would take the kid to McDonalds and then shockingly one day wakes up and says, oh, the kid is 400 pounds. I never encouraged him to get any exercise. I never encouraged him to step away from the video games. I never encouraged him to not watch TV all day. I never encouraged him to eat healthy food. I never encouraged him to exercise. Now I want a million dollars.

That is insane.

This amendment tells parents that they are not responsible. And if they are not responsible, they can even profit by becoming millionaires and sue for it.

Now, it was brought up that these companies market to kids as well as adults. I have two kids, 8 years old and younger. I can tell you who else markets to kids. Barney, Bear in the Big Blue House, Dora the Explorer, Blue's Clues, Nickelodeon, the Disney Channel. In fact, one could argue if you take this argument, that, in fact, those programs are so enticing and so addicting and so enjoyable to kids but they have no choice but to sit there and watch them every day, and as a result, they lead a stagnant life-style, so why not sue them for obesity since they are marketing to them?

It puts the incentives in the wrong place totally.

Third, I want to briefly point out that childhood obesity is certainly a serious problem. The childhood obesity rates have doubled in the last 30 years. I do not stand before you today and hold myself out as the world's leading expert on physical fitness, but I can tell you the world leading expert on physical fitness, Dr. Kenneth Cooper, the founder of the aerobics movement, testified before my Committee on Education and the Workforce on February 14 of this year and said to us that these lawsuits against the food industry are putting, or putting a tax on Twinkies is not going to make a single person any skinnier.

He said, 30 years ago did kids come home from school and eat potato chips

and cupcakes and cookies? Absolutely, they did. The difference is then they went out and rode their bike and played.

Now, they spend 1,023 hours a year in front of a TV screen watching TV or playing video games versus only 900 at school. Where are the parents? If you are talking about a kid eating fast food 21 times a week, where are the parents?

This amendment says the parents have no responsibility whatsoever. It defies common sense however well meaning the author may be. I urge my colleagues to vote no.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I am just confounded by the debate on the floor of the House as it relates to the Lampson amendment, and I rise to enthusiastically support it because all that I have been hearing from my colleagues in opposition is this is bash the parents day. The parents should have known. The parent needs to know. The parent ought to know.

The Lampson amendment is simple and it is without complexity. It simply tracks the tragedy that occurred some years ago when a young child was poisoned at one of our fast food locations in the northwestern part of America. I believe it was Whataburger and I believe it was in the State of Washington. All his amendment says is that if a child is injured, then you have a right to pursue the case on behalf of that child.

Now, as reason would have it, we already know that the Congress that we are under, over the last 10 years, has eliminated everyone's right to go into the courthouse for justice. So do not expect that there is going to be a rush to the courthouse with parents who are going to claim that all of their children have been injured because they are not going to be addressed. They will not have an opportunity to have their grievances addressed. All of the doors of the courthouses have been closed to individuals who have been aggrieved, if you will, and who have been injured.

This is a simple statement to provide the protection that the fast food chains want to have. How can we not, under the umbrella of equity, not accept the fairness of what the gentleman from Texas (Mr. LAMPSON) is offering today?

As the Chair of the Congressional Children's Caucus and the gentleman from Texas' (Mr. LAMPSON) leadership daily with exploited children, I cannot imagine that a simple amendment simply asking for fairness would not be accepted by this body. I ask my colleagues to look clearly and squarely at the simplicity of this amendment, and I ask them to vote for the Lampson amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from Texas (Mr. LAMPSON).

The amendment was rejected.

AMENDMENT NO. 9 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Ms. JACKSON-LEE of Texas:

Section 4(5), insert after "or a trade association," the following: "or a civil action brought by a manufacturer or seller of a qualified product, or a trade association, against any person,".

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is interesting in listening to the debate on this legislation and seeing, of course, extensive coverage that this legislation is obtaining, it would appear that we are doing serious legislation, providing improvement to the Medicare bill, Medicaid bill, finding ways to quell the violence in Haiti, bring some resolution to the Iraq war, but to my colleagues, we are doing none of that.

We are now spending hours on the floor, and I certainly thank my colleagues for allowing this amendment to be made in order, trying to dash the hopes of those who have been severely injured and are seeking a redress of their grievances in a court of law.

Now, all of us come from constituency that are filled with fast food chains and restaurants. Many of us would disagree with recent statements of the administration that that equals to manufacturing; but we do know that people are employed by this industry.

In my own community, I have been a strong advocate of small businesses and the franchise owners who have received their economic income from this industry. But, Mr. Chairman, we have gone too far.

Now, we want to take up the cause of fast food chains with the likes of McDonalds and Jack in the Box as characters, give them the Constitution and the Bill of Rights and tell Americans where to go. My amendment is simple. You protect the fast food chains from lawsuits, and I simply want to be able to protect those like Oprah Winfrey and others who wish to make statements about the industry or the product and allow them to be immune from lawsuits.

My amendment ensures that what is good for the geese is good for the gander. Those advancing healthy diet by discouraging the consumption of certain food because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immune from any accountability under this bill.

□ 1630

Simple. There is no sinister, if you will, hide the ball behind this amendment. It simply says that you are protecting the industry; they cannot be sued; they are above reproach; they have the Constitution and are shredding it, so why cannot we?

I do not understand. When Oprah Winfrey was sued, I do not recall any hue and cry in this body during, or in the aftermath of the lawsuit against Ms. Winfrey, millions of dollars, moving her television program to Texas, in order to be able to press her case. The system worked. There was a trial and she was vindicated ultimately, but a long trial, and the industry had its day in court. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critics who play an important role in educating the public, stimulating positive change and promoting sound eating habits open to lawsuits from an immunized industry.

This amendment addresses this concern and ensures that every American can engage in or has access to an open and honest debate.

Mr. Chairman, I would simply say that the time we have spent on this bill, I know that our time could have been more well spent. I do not know whether we have documented how many lawsuits have gone against the industry. I do not know how much money we have documented, but I would certainly say to my colleagues that it seems ridiculous that we have legislation that closes the courthouse door. The judicial system has worked well for us in America, and I simply think we should allow it to continue its work.

This amendment simply tries to make this bill minimally slightly better for the poor consumers and the voices of reason that are now opposing some of the extreme in this industry. My support is for the food franchisees and all of those who work in the industry, but even they realize that fairness is something that cannot be eaten up.

I ask my colleagues to support the Jackson-Lee amendment.

Mr. Chairman, I offered an amendment, "WATT\_019," in addition to "MJ\_004." This amendment would prohibit the food industry—which enjoys broad immunity under this bill—from initiating lawsuits against any person for damages or other relief due to injury or potential injury based on a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

This amendment is necessary to insure that the public debate on the health and nutritious effects of mass marketed food products is not completely squelched by this bill.

In 1996, Oprah Winfrey was sued under my home state's "food disparagement" laws by the beef industry for comments she made following the first "Mad cow" scare this country witnessed. After years of litigation, transfer of her television show to Texas, and an expenditure of over one million dollars, Ms. Winfrey prevailed at trial and on appeal.

Proponents of this bill assert that the food industry will incur significant cost defending "frivolous" lawsuits by the trial lawyers, but neglect the staggering costs that may be borne by private citizens should they dare question the health effects of any "qualified food product" under this bill.

My amendment insures that what's good for the geese is good for the gander. Those advancing healthy diets by discouraging the consumption of certain foods because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immunized from any accountability under this bill.

I don't recall any hue and cry in this body during or in the aftermath of the lawsuit against Ms. Winfrey to ban food libel laws. The system worked. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critics who play an important role in educating the public, stimulating positive change, and promoting sound eating habits open to lawsuits from an immunized industry.

This amendment addresses this concern and insures that every American can engage in or has access to an open and honest debate on matters of public health.

Once again, Mr. Chairman, I urge my colleagues to support my amendment.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

I ask my colleagues to vote "no" on the Jackson-Lee amendment. The Personal Responsibility in Food Consumption Act, the base bill, pertains to lawsuits people bring because they gained weight and are suing the company that served them the food, claiming it is their fault. This amendment would prevent manufacturers or sellers of food from suing individuals because, and I am not making this up, the company literally got fat. I would like to ask, how is it possible to determine what the body mass index of General Motors is? Did it gain weight over the holidays? This amendment should be defeated solely because it erroneously assumes companies can literally get fat.

The author of the amendment mentioned a little insight into where she was going when she talked about she does not want individuals like Oprah Winfrey getting sued. Well, if my colleagues recall, that did not have anything to do with this. Oprah Winfrey got sued by the Beef Cattlemen's Association because they claimed she allegedly defamed them. They did not, the Beef Cattlemen's Association, that because of her comments, this association got fat.

So this is an erroneously drafted bill, has no application here, however it is intended, and I would ask my colleagues to vote "no."

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from North Carolina for yielding, and to my good friend from the great State of Florida, let me try to clarify that this is simply an equity amendment. It is a fairness amendment.

The example of Ms. Winfrey was only because she, as an individual, was sued

by a large conglomerate, the association dealing with the beef industry. I respect both of their points of view, in fact. I welcome the opportunity for both of them to press their causes in the courts of law.

What I am simply saying is that if we are going to spend time protecting the fast food industry, using the time of this House, then I would challenge my colleagues to give me a reason, a legitimate explanation for not protecting individual rights, and that means that if an industry is to be protected from suits that are considered frivolous, then individuals for their actions should be as well protected.

I do not understand why we are coming to the floor of the House with a simply one-sided, single-focused bill. No one has described the crisis. Usually this body is conceded to be a problem solver. No one has said that we are overrun with lawsuits. There is no documentation of the amount of money that has been expended, no suggestion that the GNP has been impacted, and so if it is fair to protect the industry, fast foods in particular, if it is fair to bash parents about whether or not their own children, if injured, have a right to go into court because of the food that they are eating, not knowing the particular conditions that the parents operate in, and I would imagine that the court will determine whether those lawsuits are frivolous, if it is all right to come to the floor to do that, then I cannot imagine a simple modifying of this legislation to equalize the rights of both individuals and associations to me seems to be, if you will, hypocritical.

Again, I would ask my colleagues to consider this amendment as an amendment of equity and equality and fairness. It is not necessarily the Oprah Winfrey amendment, but I think if Ms. Winfrey was here, she would acknowledge the pain, as well as the burden, that was put upon her to go as an individual and defend her case in another jurisdiction. At least she was allowed to go into court. In this legislation, the door is slammed shut on the basis of the fact that maybe hamburgers have now taken a greater standard in this country than someone's individual rights. I would like to find the constitution that says all hamburgers are created equal.

Let me ask my colleagues to support this amendment on the basis of fairness.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, unfortunately, the gentlewoman from Texas' argument has nothing to do with her amendment and the examples that she has used has nothing to do with this bill.

First, what the amendment does is exactly what the gentleman from Florida (Mr. KELLER) has indicated, and that is to say, that a company could sue for getting too fat. Well, a company is a piece of paper that is signed

by the Secretary of State of the State of corporation, and has the State seal affixed to it. Companies do not get fat, at least in the physical way that this bill is designed to address.

Secondly, the gentlewoman from Texas brings up the case of the lawsuit that was filed against Oprah Winfrey. That was a defamation suit. This bill has nothing to do with allegations of defamation. Anybody who claims to have a cause of action for defamation is perfectly able to go to court and file their case.

So I do not understand what relevance the gentlewoman's amendment has to the issues that are presented to this bill, and that is why it should be defeated.

Mr. UDALL of New Mexico. Mr. Chairman, I move to strike the requisite number of words.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. UDALL of New Mexico. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will not take the full 5 minutes, but I am struck by the comments of my distinguished chairman and colleague from Wisconsin, because his interpretation, I believe, is not correct, because someone could claim that a fast food chain, and let me be fair in the calling of them, there are so many, whether it is Whataburger or McDonald's or Jack-In-The-Box or Burger King, that their hamburgers, as I said, it must be the constitutional protection of all hamburgers are created equal, but their hamburger makes one fat, just a simple statement.

Well, on page 5 of this bill, under the qualified civil liability action, it clearly suggests that that person would be apt to be sued, and so what I am saying is if we can put legislation on the floor of the House to protect the entities, the institutions, the businesses from frivolous lawsuits, then we should be able to protect those who are offering their opinion. By way of documentation, by way of research, they have equal rights.

This is an equity amendment, and it seems to me to be quite unusual that my colleagues would not welcome the opportunity to equalize lawsuits, equalize the ban on lawsuits because it is clear that it is in this bill, and I would ask my colleagues to consider the fairness of this because it is going directly to the point that is made in this bill, and I would ask my colleagues to support the Jackson-Lee amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

AMENDMENT NO. 10 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

**SEC. 5. ACTIONS INVOLVING WEIGHT-LOSS PRODUCTS.**

Notwithstanding any other provision of this Act, this Act shall not apply to an action alleging that a product claiming to assist in weight loss caused heart disease, heart damage, primary pulmonary hypertension, neuropsychological damage, or any other complication which may also be generally associated with a person's weight gain or obesity.

Ms. JACKSON-LEE of Texas. Mr. Chairman, when we looked at that bill, we tried to find some redeeming value to it because it does say Personal Responsibility in Food Consumption Act, and clearly there are none of us that want to be on the wrong side of personal responsibility, but I want to focus on what the bill actually does.

I think if my colleagues would listen, as the American people will have to fall victim to this particular legislation, they would know that this is going just too far because what H.R. 339 does is it bans suits for harm caused by dietary supplements and mislabeling which have nothing to do with excess food consumption and would prevent State law enforcement officials from bringing legal actions to enforce their own consumer protection law.

Beyond the idea of obesity, and I am going to get fat on whatever food one might be eating, including the very tasty French fries, this goes to the very heart of some tragic incidences that we have had dealing with food and nutritional supplements.

I am aghast, Mr. Chairman, that this bill deals with banning any opportunity to protect ourselves against ephedra and fen-phen and any other thing that has to do with these kinds of supplements.

Already we have seen the pain of various individuals who have lost their loved ones. This is nothing to simplify and/or to make light of. Even in this current year or the last year we have seen terrible tragedies occur because of a utilization of these particular drugs, and now my friends want to have a broad, legislatively written bill, H.R. 339, that slaps the face of those who lost their loved ones, who have been injured by the utilization of these supplements.

So my amendment is very simple. It provides, if you will, the protection against that. Hidden in this convoluted definition of the civil action that relates to a person's consumption of a qualified product and any health condition that is associated with a person's weight gain is the fact that a person is banned from bringing a lawsuit on these kinds of products and that this bill will shield the producer of dietary supplements from all liability.

I offer this amendment to ensure that makers of these highly dangerous and highly unregulated drugs are held

accountable for their action. Let me give my colleagues an example, Mr. Chairman.

Under the Food, Drug and Cosmetic Act, all laws that apply to food apply to dietary supplements unless they explicitly exempt them. That means that this bill limits the liability of dietary supplementing manufacturers because it does not specifically exempt. Unlike hamburgers and French fries, dietary supplements often have hidden side effects that often have immediate and dire consequences, but yet we have a bill that is broad based with a broad sweep and no limitation, and unlike drugs, these supplements neither have to test for side effects nor report them to the Federal Government.

Let me tell my colleagues what is worse. This bill is retroactive. So ongoing lawsuits of people already punished, already injured, all suffering, already damaged, already dead are going to be voided by the passage of this lawsuit. How incredulous.

I cannot imagine that my colleagues would have such intent because I would never attribute sinister intent to the drafters of this legislation, and I would only ask my colleagues, let us fix it today on the floor of the House. Let us show America that there is no intent to go back into the courtroom of ongoing litigation where family members are gathered in great, if you will, disadvantage because of what has happened to them or a loved one and ask them to give up a legitimate claim, and then let us not go forward with a bill that takes a broad brush and denies one's right to get into the court on these dietary supplements and nutritional supplements.

□ 1645

The current system is not sufficient to deal with this threat. Consider ephedra, for example, which the FDA started investigating in 1997. It is now 7 years, 18,000 adverse reactions, and at least 155 deaths later; and it is just now being pulled off the shelves. So it is important to note, Mr. Chairman, that this amendment is simply to clarify this bill.

I would ask my colleagues to support this amendment and to recognize that this can help us together clarify the rights of those who are already in court and the rights of those going forward on the nutritional supplements that have brought great damage to many Americans.

Mr. KELLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will ask my colleagues to vote "no" on the Jackson-Lee amendment dealing with diet pills on a couple of grounds:

First, the Personal Responsibility in Food Consumption Act applies to weight gain, obesity, or any health condition that is associated with a person's weight gain, such as diabetes, high cholesterol, cardiovascular disease. It has nothing to do with weight loss and nothing to do with diet pills,

and this amendment confusingly implies weight loss can be weight gain, which does not make sense.

The second part of the amendment, which is somewhat odd, is the amendment would bizarrely require Members to vote for a provision that states that being fat is "generally associated" with brain dysfunction and neurological disorders. Specifically, it says, "neurological damage or any other complication which may be generally associated with a person's weight gain or obesity."

Not all people who might be overweight are suffering from neurological problems. I can tell you that it is possible to be both fat and happy. So I do not understand the reason for this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would ask the gentleman if Santa Claus is both fat and happy?

Mr. KELLER. Reclaiming my time, Mr. Chairman, I believe he is.

Mr. WATT. Mr. Chairman, I move to strike the last word.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member very much for yielding to me. I know we can come to a meeting of the minds on this.

Mr. Chairman, I want to take my good friend from Florida somewhat to task because it is inaccurate what he has just represented to this body. It is totally inaccurate. These supplements claim to help prevent weight gain or they claim to help or to prevent obesity. This legislation does apply. Clear and simply, it does apply.

What is going to happen is that we are hiding the ball. This legislation will pass and thousands will be thrown out of the courthouse. I have already cited for my colleagues that there have been 18,000 adverse reactions from ephedra, with 155 deaths.

Let me advise how this bill impacts the problem that I am citing by way of my amendment and why it needs to be fixed. First of all, section 3(a) of the bill bans qualified civil liability action. That already goes to those who have had an adverse reaction or those who are dead and their family members are trying to go into court. Section 4(5) of the bill defines qualified civil liability actions as actions involving a qualified product. Section 4(4) of the bill defines a qualified product as a food under the Food, Drug and Cosmetic Act. Section 32(f) of the Food, Drug and Cosmetic Act says a dietary supplement shall be deemed to be a food within the meaning of this chapter.

This bill is a direct correlation to the Food, Drug and Cosmetic Act; and ephedra, as a dietary supplement, is, therefore, a food, with 18,000 adverse

reactions and 155 deaths. You can equate it to those who are allergic to dairy products, for example.

Again, these attempts are not to condemn the food industry globally. We all enjoy and need the nutrients produced by the agricultural industry as well as the food industry, the processing food industry, the fast-food industry that produces meals that sometimes may be the only meals that people have. But what we are saying, Mr. Chairman, and what we are saying to this body, you cannot hide the ball.

We hope that this is not a sinister intent, a back-door intent to have tort reform and to close the courthouse door. If it is not, you cannot argue with the fact that this is a food supplement covered by this bill. And I would say to my colleagues, when they do not want to accept any amendment, we may have a disagreement on this bill; but, frankly, we do not have a disagreement on the fact that people's rights may be denied. They think it is the food industry; I think it is individuals.

If my colleague thinks that the bill does not apply to dietary supplements, then why does he not accept the amendment? It does no harm anyhow. The language of the bill is ambiguous at best, dangerous at worst. But more importantly, I have just run through an explanation why food supplements are included. So I do not think we should take a chance. I think we should protect the American public and provide support for this amendment so in fact we have the opportunity to clarify it.

I do not see where this bill clarifies a distinction between food and the food supplement and the fact as to whether or not someone would make a claim that would subject them to a lawsuit. I am concerned, and I would think my colleagues should be concerned. This does not have to be time spent in frivolity. It can be a serious attempt at legislation. All we have to do is balance it.

If there is some substance to this idea that fast-food chains are being subjected unmercifully to lawsuits, then just imagine those without the kinds of resources that you might think a business would have and individually are sued by this industry. That is unfair. And those who are now in the process of suing because they have actually been harmed.

The very language of this bill that I think is overreaching anyhow, which is clearly retroactive, to me, suggests that we have a real problem. In fact, I would ask the question whether this bill will withstand any sort of court review; and if I can stretch it, whether it will withstand any kind of constitutional muster. Because I know hidden somewhere somebody's rights have been denied.

I would ask my colleagues to again support this equitable amendment that allows for the bill to be modified to protect individual rights and the ideas of food supplements being included.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, this bill has nothing to do with weight loss products, whether they are food supplements or drugs that require a prescription or drugs that are sold over the counter. It only deals with food that makes people increase their weight so that they become obese and have all of the medical problems related to obesity.

Now, on page 5 of the bill, "Qualified Product" is defined in section 201(f) of the Federal Food, Drug and Cosmetic Act; and this section of the Food, Drug and Cosmetic Act reads as follows: "The term food means when an article is used for food or drink for man or other animals, chewing gum and articles used for components of any such article."

So all of what the gentlewoman from Texas complains about is not covered in this bill because it is not a qualified product as defined by the bill.

And I will not yield to the gentlewoman. She has been up twice to try to explain what she is trying to do. She is just plain wrong.

And, secondly, there is one other thing that I think is very relevant, and this comes from the black and white provisions of her own amendment as in the CONGRESSIONAL RECORD. It talks about neuropsychological damage or other complications which may generally be associated with a person's weight gain or obesity.

Now, to say that someone who is obese has got psychological damage, I think, gets to the point of the gentleman from Florida saying that there are a lot of people who can be both fat and happy.

If the gentlewoman from Texas wants to draft an amendment to aim at the target, this was not it because the gun is shooting in the wrong direction.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to make an inquiry.

The CHAIRMAN pro tempore (Mr. BASS). Is there objection to the request of the gentlewoman from Texas?

Mr. KELLER. Objection.

The CHAIRMAN pro tempore. Objection is heard.

The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. WATT: Strike section 3(b).

Mr. WATT. Mr. Chairman, I will try to be brief, because we have been here for a long time. I do want to compliment all of my colleagues who have really explored the issues related to this bill vigorously, and I think it has been a good discussion.

This final amendment, and I do think it is the final amendment, would strike section 3(b) of the bill. Section 3(b) provides that a qualified civil liability action that is pending on the date of the enactment of this act shall be dismissed immediately by the court in which the action was brought or is currently pending.

The effect of that language is to make this bill retroactive in its application applied to pending lawsuits as of the date the law becomes effective. Now, there are not currently any pending lawsuits, because all of them have been dismissed, as I have indicated previously. But between now and the time that this legislation may be enacted, other lawsuits may be pending or may be filed; and so this amendment is aimed at protecting against retroactive application of this bill because I think it is just unfair and almost un-American to change the rules of a legal process in the middle of the action.

Under this bill, any banned lawsuit would be dismissed by a court whether it has just been filed, a judgment is imminent, or a judgment has been entered and post-judgment proceedings and appeal may even be in process. This requirement is inherently unfair to litigants who may have devoted countless time and resources based upon their legitimate reliance on the laws of the States at the time they initiated their lawsuits.

Whether or not there are pending cases that would be dismissed under the bill, the retroactivity of the bill is bad policy and bad precedent. Our Nation prides itself on a fair, impartial, and open judiciary. This provision, however, undermines the judiciary and erodes public confidence in the system. The American people cannot have faith that any of their rights are secure if we change the rules of the game midway through a legal process. The judicial system, State and Federal, is a vital part of our constitutional framework, and we should not be changing the rules in midstream.

As a litigator, I know how deeply our citizens feel about rights they advance in court. I know the personal stress and financial strain that lawsuits may impose on an entire family, and I know how contrary this provision is to fundamental notions of fairness and fair play. I urge my colleagues to support the amendment to eliminate the retroactivity of this bill.

□ 1700

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

This amendment would prevent the application of H.R. 339 to pending law-

suits and must be defeated. The amendment would essentially gut the entire bill by preventing the dismissal of pending lawsuits. If such an amendment passed, all that would happen is that hundreds of additional cases would be filed right before the date of enactment. That is exactly what happened in Texas and Mississippi when those States recently enacted legal reforms that did not preclude pending cases.

Such an amendment, as offered by the gentleman from North Carolina, would therefore make the current situation much worse. The Supreme Court has held that Congress can impose rules that apply retroactively, if it does so, pursuant to an economic policy. Review of retroactive legislation under the due process clause is no more than a variety of judicial regulation of economic activity under the concept of substantive due process.

The general principles the Supreme Court has handed down regarding the constitutionality of retroactive legislation under due process principles were summarized by the court as follows: "The strong deference accorded legislation in the field of national economic policy is no less applicable when that legislation is applied retroactively. Provided that the retroactive application of a statute is supported by a legitimate legislative purpose, furthered by rational means, judgment about the wisdom of such legislation remain within the legislative and exclusive branches. The retroactive legislation does not have to meet a burden not faced by legislation that has only future effects, but that burden is met simply by showing that the retroactive application of the legislation is itself justified by a rational legislative purpose," and that is Pension Benefit Guaranty Corporation v. R.A. Gray & Company decided by the Supreme Court in 1984.

This bill aims to save the national food industry from bankruptcy due to pending lawsuits and is an enactment pursuant to a national economic policy. The Supreme Court also upheld the retroactive application of the liability provisions of the Multiemployer Pension Plan Amendments Act of 1980 against the challenge that the withdrawal liability provisions violated the fifth amendment taking of property clause.

The provision of the Act that required an employer to fund its share of a pension plan was viewed by the court as a law regulating economic activity to promote the common good. Therefore, the law was not an invalid taking of property for which compensation was due. That is Connolly v. Pension Benefit Guaranty Corporation, 1986.

This amendment is a bad one. It is designed to gut the legislation and should be defeated.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

I rise to support of the Watt amendment, and would offer to say to the

gentleman from Wisconsin (Mr. SEN-SENRENNER), this is a vital amendment. This happens to seek to eliminate the retroactivity of the very point that I previously made regarding the ongoing and pending lawsuits, particularly on the Ephedra issue.

Let me cite an example to show how deadening and devastating this legislation would be passed with the anti or retroactive language in it that would then stop at the courthouse steps; more seriously, stop at the bench of the judge those ongoing litigation matters that are now pending.

I gave some comfort by suggesting that I would not attribute anything misdirected or mean-spirited to this legislation; I assume there is some purpose for it, but I cannot imagine why we would want to close the door on those who have suffered.

Let me cite an example. Earline Cook has filed a wrongful death claim in the United States District Court for Western Missouri against several companies after her husband passed away in July 2001 after taking a product containing Ephedra. Mr. Cook was a decorated military veteran who died after ingesting an Ephedra-based product while playing basketball on a military base. The autopsy and military investigation concluded that death was caused by the Ephedra-based product. The military base recently named the gymnasium after Mr. Cook in recognition of his dedication and service to the Army and his efforts to stay in top physical shape during his military career.

Her case is currently pending, and I will submit the actual lawsuit into the RECORD because, for some reason, my colleagues seem to think we are giving up smoke, and I would tend to think this is to the contrary.

This is so important because dietary supplements are covered by this legislation. Section 321(ff) of the Food, Drug and Cosmetic Act says "a dietary supplement shall be deemed to be a food within the meaning of this chapter," and this language is referred to in this legislation.

So the Watt amendment is an excellent amendment because the gentleman is trying to protect the likes of Ms. Cook who is innocent, and while she has filed in a Federal court, unbeknownst to her, we are on the floor of the House undermining, cancelling her lawsuit. Might I just say, what a tragedy.

I imagine we could name a number of serious incidents that are ongoing that have resulted in lawsuits regarding Ephedra, and maybe we can list a number of other dietary supplements as food supplements as section 321(ff) suggests. It is the height of hypocrisy that the case that is pending is that of a decorated military veteran who was attempting to stay at full measure to serve his country and who was playing basketball on a military base. This lawsuit is ongoing, and I cannot understand why we would want to douse this

widow's opportunity to petition in a court of law.

We have already said that the judicial system works, and I cannot imagine why we are here today playing with the lives and the ability to achieve justice of those who are here in this country, and particularly as this particular case suggests, those are willing to give the ultimate measure for this Nation.

This is a straightforward amendment which carries with it the weight of rightness, and that is that you cannot have retroactivity in this bill. That would deny people the right to access their rights in court.

My conclusion is that I beg to differ with anyone who would say that this is not covered, food supplements are not covered in this bill because they need to read section 321(ff). The Food, Drug and Cosmetic Act says "a dietary supplement shall be deemed to be a food within the meaning of this chapter." It is covered, and this amendment should pass. I ask my colleagues to support the Watt amendment.

Mr. Chairman, I urge everyone to vote "yes" to the first of my two amendments, "MJ\_004" to ensure that dietary supplement manufacturers don't get away with murder.

This bill bans not only so-called "obesity-related suits," but any civil action that "relate[s] to . . . a person's consumption of a qualified product . . . and any health condition that is associated with a person's weight gain." Note that the person with the health condition does not have to be obese, they only have to have a health condition that obese people also have. Heart disease and kidney problems would be some of those diseases, for example. Hidden in this convoluted definition is the fact that this bill will shield the producers of dietary supplements from all liability. I offer this amendment to ensure that makers of these highly dangerous—and highly unregulated—drugs are held accountable for their actions.

Under the Food, Drug and Cosmetic Act, all laws that apply to "food" apply to dietary supplements unless they explicitly exempt them. That means this bill also limits the liability of dietary supplement manufacturers. Unlike hamburgers and french fries, dietary supplements often have hidden side effects that have immediate and dire consequences. And unlike drugs, these supplements neither have to test for side effects nor report them to the Federal Government.

Our current system isn't sufficient to deal with this threat. Consider ephedra. The FDA started investigating ephedra in 1997. It's now 7 years, 18,000 adverse reactions, and at least 155 deaths later—and it's just now being pulled off the shelves. Despite the reports of strokes, seizures, heart attacks, and sudden death, ephedra was allowed to stay on the market.

Now that ephedra is gone, new diet drugs are already taking its place: bitter orange, aristolochic acid, and usnic acid. All three have been associated with kidney and liver problems. And while the FDA claims that it will look into the matter, we all saw what happened the last time the FDA began its cumbersome process. How many people will die this time? While the government works through its bureaucratic process, we have to let people have their day in court to stop these tragic events from happening again.

Vote "aye" for this amendment and make sure that this bill is limited to what it claims to stop—frivolous obesity cases, and not meritorious claims against dangerous drug manufacturers.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI, CENTRAL DIVISION

EARLINE COOK, surviving spouse of HENRY L. COOK, deceased, and administrator of the Estate of Henry L. Cook, deceased,

Plaintiff,

v.

CYTODYNE TECHNOLOGIES, INC., a New Jersey corporation, Serve: Robert Chinery, Jr., Cytodyne Technologies, Inc., 2231 Landmark Place, Manasquan, New Jersey 08736,

and

NUTRAQUEST, INC., a New Jersey corporation, Serve: Robert Chinery, Jr., Nutraquest, Inc., 2231 Landmark Place, Manasquan, New Jersey 08736,

and

ROBERT CHINERY, JR., individually,

and

PHOENIX LABORATORIES, INC., a New York corporation, Serve: Mel L. Rich, President and CEO, Phoenix Laboratories, Inc., 140 Lauman Lane, Hicksville, New York 11801,

and

GENERAL NUTRITION CENTER, INC., d/b/a GNC, a Pennsylvania corporation, Serve: General Nutrition Center, Inc., c/o United States Corporation Company, 221 Bolivar, Jefferson City, MO 65101,

and

GENERAL NUTRITION CORPORATION, d/b/a GNC, a Pennsylvania corporation, Serve: Michael K. Meyers, President & CEO, General Nutrition Corporation, Inc., 921 Penn Avenue, Pittsburgh, PA 15222,

and

FICTITIOUS DEFENDANTS A,B,C, and D, Defendants.

#### COMPLAINT

COMES NOW, Plaintiff, individually, on behalf of the class of claimants entitled to recover for the wrongful death of Henry L. Cook and as Administrator of the Estate of Henry L. Cook, and for her Complaint states and alleges as follows:

#### Type of Case

1. This is a wrongful death action brought against Defendants under Missouri law, §537.080 RSMo. for the wrongful death of Henry L. Cook on or about July 17, 2001. This action is brought by Plaintiff, Earline Cook, both individually as the surviving spouse of Henry L. Cook, as representative for the class claimants under §537.080 RSMo. and as the duly appointed administrator of the Estate of Henry L. Cook. Decedent Henry L. Cook used Defendants', Cytodyne Technologies, Inc. (hereinafter "Cytodyne")/Nutraquest, Inc. (hereinafter "Nutraquest") product—Xenadrine RFA-1—preceding his death on or about July 17, 2001. As a direct and proximate result of taking this product decedent Henry L. Cook was caused to suffer physical injury and death by sudden cardiopulmonary arrest. The Xenadrine RFA-1 product is manufactured by Cytodyne/Nutraquest and Defendant Phoenix Laboratories, Inc. (hereinafter "Phoenix"), and was sold and marketed through General Nutrition Center, Inc. and/or Defendant General Nutrition Corporation (hereinafter jointly referred to as "GNC") retail outlets. The events giving rise to Henry L. Cook's death occurred in St. Joseph, Missouri. This action seeks monetary damages for the personal injuries and wrongful death caused by

the Xenadrine RFA-1 product, and for Earline Cook's loss of the consortium of her husband and for all the damages allowed by law.

#### Parties

2. Plaintiff, Earline Cook, is an adult resident of St. Joseph, Buchanan County, Missouri.

3. Defendant, Cytodyne Technologies, Inc. ("Cytodyne") is a corporation organized and existing under the laws of New Jersey. Cytodyne's principal place of business is located at 2231 Landmark Place, Manasquan, New Jersey, 08736. At all times relevant hereto, Cytodyne was in the business of manufacturing, marketing, selling and distributing Xenadrine RFA-1.

4. Defendant Cytodyne is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Cytodyne does not have a registered agent for service of process in Missouri. Cytodyne Technologies may be served through any of its officers at its principal place of business at 2231 Landmark Place, Manasquan, New Jersey, 08736.

5. Defendant, Nutraquest, Inc. ("Nutraquest") is a corporation organized and existing under the laws of New Jersey. Nutraquest's principal place of business is located at 2231 Landmark Place, Manasquan, New Jersey, 08736. Nutraquest, Inc. was formerly known as Cytodyne Technologies, Inc. At all times relevant hereto, Nutraquest was in the business of manufacturing, marketing, selling and distributing Xenadrine RFA-1.

6. Defendant Nutraquest is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Nutraquest does not have a registered agent for service of process in Missouri. Nutraquest may be served through any of its officers at its principal place of business at 2231 Landmark Place, Manasquan, New Jersey, 08736.

7. Defendant Robert Chinery, Jr. ("Chinery") is an individual residing in New Jersey. At all times relevant hereto, Chinery was the founder, sole shareholder and a corporate officer of Cytodyne/Nutraquest. On information and belief, prior to the formation of Cytodyne/Nutraquest, Chinery created, developed, tested, manufactured, distributed and/or sold Xenadrine RFA-1 (under that name or a different name) individually. Chinery personally had knowledge of and knowingly participated in the actions of Cytodyne/Nutraquest giving rise to liability as set forth within this Complaint. Additionally, upon information and belief, Chinery owns 100% of Cytodyne/Nutraquest's stock and Cytodyne/Nutraquest is so dominated by Chinery that to avoid injustice the corporate form of Cytodyne/Nutraquest should be disregarded and Chinery should be held personally and individually responsible for the actions of Cytodyne/Nutraquest.

8. Defendant, Phoenix Laboratories, Inc. ("Phoenix") is a corporation organized and existing under the laws of the State of New York. Phoenix's principal place of business is located at 140 Lauman Lane, Hicksville, New York, 11801. At all times relevant hereto, Phoenix was in the business of manufacturing, formulating, producing, marketing, selling and distributing Xenadrine RFA-1.

9. Defendant Phoenix is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Phoenix does not have a registered agent for service of process within the State of Missouri. Defendant Phoenix may be served through Mel L. Rich, its President and Chief Executive Officer, at its principal place of business, 140 Lauman Lane, Hicksville, New York 11801.

10. Defendant General Nutrition Center, Inc. d/b/a GNC is a corporation organized and existing under the laws of the State of Penn-

sylvania. Defendant General Nutrition Center, Inc. is not registered or qualified to do business in the State of Missouri with its principal place of business at 921 Penn Avenue, Pittsburgh, Pennsylvania. Defendant General Nutrition Center, Inc. may be served through its registered agent in Missouri, the United States Corporation Company, 221 Bolivar, Jefferson City, Missouri 65101.

11. Defendant General Nutrition Corporation d/b/a GNC is a corporation organized and existing under the laws of the State of Pennsylvania. Defendant General Nutrition Corporation is not registered or qualified to do business in the State of Missouri. Defendant General Nutrition Corporation does not have a registered agent for service of process within the State of Missouri. Defendant General Nutrition Center, Inc. may be served through Mr. Michael K. Meyers, its President and Chief Executive Officer at its principal place of business, 921 Penn Avenue, Pittsburgh, Pennsylvania 15222.

12. Defendant General Nutrition Center, Inc. and Defendant General Nutrition Corporation are both names under which the same business and/or corporation has operated and may be jointly referred to within this Complaint as GNC.

13. Fictitious Defendants, A, B, C, and D, are those persons, franchisees, sales representatives, district managers, firms or corporations whose actions, inactions, fraud, scheme to defraud, and/or other wrongful conduct caused or contributed to the injuries sustained by Plaintiff and Decedent, whose true and correct names are unknown to Plaintiff at this time, but will be substituted by Amendment when ascertained. At all times relevant hereto, the fictitious defendants were in the business of marketing, formulating, producing, selling and distributing Xenadrine RFA-1.

14. At all times relevant hereto, Defendants were in the business of manufacturing, marketing, producing, formulating, selling and distributing Xenadrine RFA-1.

#### Jurisdiction and Venue

15. The matter in controversy significantly exceeds, exclusive of interest and costs, the sum of \$75,000 and is properly before this Court.

16. This Court has personal jurisdiction over Cytodyne/Nutraquest pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Cytodyne/Nutraquest and its employees; and (2) the commission of tortious acts by Cytodyne/Nutraquest and its employees within the State of Missouri.

17. This Court has personal jurisdiction over Chinery pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Chinery through his alter ego—Cytodyne/Nutraquest; and (2) the commission of tortious acts by Chinery through his alter ego—Cytodyne/Nutraquest within the State of Missouri. Additionally, Chinery, as a corporate officer of Cytodyne/Nutraquest, knowingly participated in the actions and conduct of Cytodyne/Nutraquest giving rise to the liability set forth herein and therefore (1) transacted business within the State of Missouri; and (2) committed tortious acts within the State of Missouri.

18. This Court has personal jurisdiction over Phoenix pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Phoenix and its employees; and (2) the commission of tortious acts by Phoenix and its employees within the State of Missouri.

19. This Court has personal jurisdiction over GNC pursuant to §506.500 RSMo. be-

cause this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by GNC and its employees; and (2) the commission of tortious acts by GNC and its employees within the State of Missouri.

20. This Court has personal jurisdiction over Fictitious Defendants A, B, C and D pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Fictitious Defendants A, B, C and D and their employees; and (2) the commission of tortious acts by Fictitious Defendants A, B, C and D and their employees within the State of Missouri.

21. Plaintiff's claim for wrongful death accrued in Missouri. On information and belief, the Xenadrine RFA-1 was purchased and ingested by decedent in Missouri—specifically in St. Joseph, Missouri within the Western District of Missouri. Decedent resided in St. Joseph, Missouri within the Western District of Missouri at the time of his death. Plaintiff currently resides in St. Joseph, Missouri within the Western District of Missouri. Defendants include an individual non-resident and foreign corporations, one or more of which has been and are currently engaged in business, directly or by authorized agent, in Missouri. Defendants GNC's registered agent is specifically located within this division of the Western District of Missouri in Jefferson City, Missouri.

22. Venue is appropriate before this Court pursuant to §508.010 RSMo as defendants include both individuals and corporations and all defendants are non-residents of Missouri. Furthermore, Defendant GNC's registered agent is located in Jefferson City, Missouri.

#### General Allegations

23. Decedent Henry Lee Cook was born on June 16, 1953 in Yazoo City, Mississippi. Decedent Henry L. Cook and Plaintiff Earline Cook were married on January 21, 1985.

24. At the time of his death, decedent Henry L. Cook was employed with the United States Army as a military police officer, having attained the rank of Sergeant Major.

25. Prior to his death, decedent Henry L. Cook was in good health and physical condition and regularly engaged in physical activities such as running, playing basketball and other exercise. Mr. Cook regularly worked out at the gym at work approximately four times a week and regularly engaged in physical activities.

26. Upon information and belief, at a point in time relatively shortly before his death, decedent Henry L. Cook purchased Xenadrine RFA-1 from Defendant GNC's store located in St. Joseph, Missouri. Thereafter, up to and including on the date of his death, decedent Henry L. Cook regularly took the Xenadrine RFA-1 product in accordance with the recommended dosages contained on the Xenadrine RFA-1 bottle.

27. On July 17, 2001, decedent Henry L. Cook ingested the recommended dosage of Xenadrine RFA-1 product in St. Joseph, Missouri.

28. At approximately 11:30-11:45 a.m. on July 17, 2001, decedent Henry L. Cook—while playing basketball at Ft. Leavenworth, Kansas—collapsed and was non-responsive. Military personnel on the scene immediately attempted to administer cardio pulmonary resuscitation until emergency personnel arrived. Emergency personnel attempted electronic shock treatment but were unable to revive decedent Henry L. Cook. Henry L. Cook was immediately transported via ambulance to the local hospital where he was pronounced dead at 12:50 p.m.

29. Because of the sudden and unexpected nature of decedent Henry L. Cook's death,

the United States Army conducted an investigation into decedent Henry L. Cook's cause of death.

30. During the investigation, military investigators seized a bottle of Xenadrine RFA-1. At the time of decedent Henry L. Cook's death, the bottle of Xenadrine RFA-1 had 52 of the original 120 pills remaining in the bottle.

31. An autopsy was performed on decedent Henry L. Cook on July 18, 2001.

32. Toxicology reports from the autopsy revealed ephedrine and pseudoephedrine in the heart blood (respectively 140 ng/ml and 47.1 ng/ml).

33. Toxicology reports from the autopsy also revealed ephedrine and pseudoephedrine in the femoral blood (respectively 46.6 ng/ml and 18.5 ng/ml).

34. The autopsy results support the conclusion that the ephedrine contained in the Xenadrine RFA-1 ingested by decedent Henry L. Cook prior to his death caused or contributed to cause decedent Henry L. Cook's death.

35. As a direct and proximate result of defendants' acts and omissions, plaintiff's decedent Henry L. Cook was caused to suffer injuries and death. Plaintiff has been caused to suffer damages in the past from the loss of her husband, and will continue to experience this loss in the future. Upon the trial of this case, Plaintiff will request the Jury to determine fair compensation for the amount of loss which Plaintiff and others have incurred in the past and will likely incur in the future as a result of the wrongful death of Henry L. Cook.

*Xenadrine RFA-1 and Defendants' Knowledge Concerning its Dangerous Propensities*

36. Xenadrine RFA-1 is an ephedra-containing dietary supplement/herbal product.

37. In addition to ephedra, Xenadrine RFA-1 contains other constituent "herbal" products that increase and potentiate the effects of ephedrine. Likewise, Xenadrine RFA-1 contains ephedrine alkaloids other than ephedrine.

38. Defendants did manufacture, design, formulate, produce, package, market, sell and/or distribute Xenadrine RFA-1.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am asking my colleagues to vote no on the Watt amendment dealing with the pending lawsuits.

This amendment was raised at the Committee on the Judiciary. The gentleman made similar, consistent arguments, and it was shot down at the time.

I would like to give three reasons why my colleagues should vote no. First of all, there is a good policy reason to vote no. Second, the Supreme Court will uphold this; and third, we have done similar language before in other bipartisan bills.

First, with respect to the reason of policy, if such an amendment were passed, all that would happen is we would have hundreds if not more cases filed before the date of enactment, and we know that after this bill passes today, it has to pass the other body where we have Senator McCONNELL as the chief sponsor, so there would be a time frame where there would be an incentive to find the right jury and the right judge.

We have an idea that is sort of their game plan because the one witness the

Democrats called at the Committee on the Judiciary hearing was a man named John Banzhaf who said, "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open the floodgates." So it does away with that incentive that clearly they want.

Second, the Supreme Court has held that Congress can impose rules retroactively if it does so pursuant to an economic policy. The Pension Benefit Guaranty Corporation v. R.A. Gray is one example. Clearly a bill that aims to save the food industry from potentially bankrupting litigation like that of the tobacco industry is pursuant to a national economic policy, especially since it is the largest private sector employer in the country.

Third, this exact same language appeared in H.R. 1036, the Protection of Lawful Commerce and Arms Act, which enjoyed wide bipartisan support in this House and received 285 votes. I know the gentleman from North Carolina (Mr. WATT) is going to say yes, but that bill was defeated in the Senate. Fair enough, it was defeated in the Senate, but it was because gun control measures were added to it. There were no changes to this particular provision. It has enjoyed broad bipartisan support in the past. I urge my colleagues to vote no on the Watt amendment.

Mr. SCOTT of Virginia. Mr. Speaker, I move to strike the requisite number of words.

Mr. Chairman, just because we made something retroactive in the past does not make it a good idea. It is a bad idea to pass legislation that retroactively affects pending lawsuits.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I just want to briefly make it clear that my colleagues are trying to make it appear that this is a customary practice of ours. It really is a rare thing to make a piece of legislation retroactive, and even rarer to make it retroactive to pending lawsuits that have already been filed.

I have got a whole list of things that we have filed that one could argue might be better candidates for retroactive application than this particular piece of legislation that our own committee has passed out. And to hang our hats on something that the Senate did not even think was worthy of passing on to the President is a real stretch.

I am going to resist the temptation to start reading the bills that the Committee on the Judiciary has passed without retroactivity but things like the Bill Emerson Good Samaritan Food Donation Act, which limited the liability of those who donate food to a charity, we did not even make that retroactive in its application.

There are a bunch of things that we passed, and I am the first to concede, as the chairman acknowledged in his

statement, I am not arguing this is unconstitutional or even unprecedented, I think it is unfair and unnecessary in this case.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. WATT) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 10 offered by the gentlewoman from Texas (Ms. JACKSON-LEE); and amendment No. 8 offered by the gentleman from North Carolina (Mr. WATT).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

AMENDMENT NO. 10 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 250, not voting 17, as follows:

[Roll No. 52]

AYES—166

Abercrombie	Conyers	Grijalva
Ackerman	Crowley	Gutierrez
Allen	Cummings	Hastings (FL)
Andrews	Davis (AL)	Hill
Baca	Davis (CA)	Hinche
Baldwin	DeFazio	Hoeffel
Ballance	DeGette	Holt
Becerra	Delahunt	Honda
Berman	DeLauro	Hooley (OR)
Berry	Deutsch	Hoyer
Bishop (GA)	Dicks	Inslee
Bishop (NY)	Dingell	Israel
Blumenauer	Doggett	Jackson (IL)
Boswell	Dooley (CA)	Jackson-Lee
Brady (PA)	Doyle	(TX)
Brown (OH)	Emanuel	Jefferson
Brown, Corrine	Engel	Johnson, E. B.
Capps	Eshoo	Jones (OH)
Capuano	Etheridge	Kanjorski
Cardin	Evans	Kaptur
Carson (IN)	Farr	Kennedy (RI)
Carson (OK)	Fattah	Kildee
Case	Filner	Kilpatrick
Chandler	Frost	Kind
Clay	Gonzalez	Klecza
Clyburn	Green (TX)	Lampson

Langevin  
Lantos  
Larson (CT)  
Leach  
Lee  
Levin  
Lewis (GA)  
Lofgren  
Lowey  
Majette  
Maloney  
Markey  
Marshall  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Michaud  
Millender-  
McDonald  
Miller (NC)  
Miller, George  
Mollohan  
Moore

Moran (VA)  
Murtha  
Nadler  
Napolitano  
Neal (MA)  
Oberstar  
Obey  
Oliver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor  
Payne  
Price (NC)  
Rahall  
Rangel  
Reyes  
Ross  
Rothman  
Roybal-Allard  
Rush  
Sabo  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sanders  
Sandlin  
Schakowsky  
Schiff  
Scott (VA)

Serrano  
Sherman  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Solis  
Spratt  
Stark  
Strickland  
Stupak  
Tauscher  
Thompson (MS)  
Tierney  
Towns  
Turner (TX)  
Udall (NM)  
Van Hollen  
Velázquez  
Visclosky  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Woolsey  
Wu  
Wynn

Ros-Lehtinen  
Royce  
Ruppersberger  
Ryan (OH)  
Ryan (WI)  
Ryun (KS)  
Saxton  
Schrock  
Scott (GA)  
Sensenbrenner  
Sessions  
Shadegg  
Shaw  
Shays  
Sherwood  
Shimkus  
Shuster  
Simmons

Simpson  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Stenholm  
Sullivan  
Sweeney  
Tancredo  
Tanner  
Taylor (MS)  
Taylor (NC)  
Terry  
Thomas  
Thompson (CA)  
Thornberry  
Tiahrt

Tiberi  
Toomey  
Turner (OH)  
Upton  
Vitter  
Walden (OR)  
Walsh  
Wamp  
Weldon (FL)  
Weldon (PA)  
Weller  
Whitfield  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)  
Young (FL)

## NOT VOTING—17

Bell  
Berkley  
Cardoza  
Davis (IL)  
Frank (MA)  
Gephardt

Gibbons  
Goss  
Harman  
Hinojosa  
Kucinich  
Miller (FL)

Pelosi  
Rodriguez  
Tauzin  
Udall (CO)  
Wicker

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

Kanjorski  
Kaptur  
Kennedy (RI)  
Kildee  
Kilpatrick  
Klecza  
Lampson  
Lantos  
Larson (CT)  
Lee  
Levin  
Lewis (GA)  
Lipinski  
Lofgren  
Lowey  
Majette  
Maloney  
Markey  
Marshall  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez

Millender-  
McDonald  
Miller (NC)  
Miller, George  
Mollohan  
Moore  
Murtha  
Nadler  
Napolitano  
Neal (MA)  
Oberstar  
Obey  
Oliver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor  
Payne  
Price (NC)  
Rahall  
Rangel  
Reyes  
Ross  
Rothman  
Roybal-Allard  
Rush  
Ryan (OH)  
Sabo  
Sánchez, Linda  
T.  
Sanchez, Loretta

Sanders  
Sandlin  
Schakowsky  
Schiff  
Scott (VA)  
Serrano  
Sherman  
Skelton  
Slaughter  
Snyder  
Solis  
Spratt  
Stark  
Strickland  
Stupak  
Tauscher  
Thompson (CA)  
Thompson (MS)  
Tierney  
Towns  
Turner (TX)  
Udall (NM)  
Van Hollen  
Velázquez  
Visclosky  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Woolsey

## NOES—250

Aderholt  
Akin  
Alexander  
Bachus  
Baird  
Baker  
Ballenger  
Barrett (SC)  
Bartlett (MD)  
Barton (TX)  
Bass  
Beauprez  
Bereuter  
Biggart  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonner  
Bono  
Boozman  
Boucher  
Boyd  
Bradley (NH)  
Brady (TX)  
Brown (SC)  
Brown-Waite,  
Ginny  
Burgess  
Burns  
Burr  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Carter  
Castle  
Chabot  
Chocola  
Coble  
Cole  
Collins  
Cooper  
Costello  
Cox  
Cramer  
Crane  
Crenshaw  
Cubin  
Culberson  
Cunningham  
Davis (FL)  
Davis (TN)  
Davis, Jo Ann  
Davis, Tom  
Deal (GA)  
DeLay  
DeMint  
Diaz-Balart, L.  
Diaz-Balart, M.

Doolittle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Emerson  
English  
Everett  
Feeney  
Ferguson  
Flake  
Foley  
Forbes  
Ford  
Fossella  
Franks (AZ)  
Frelinghuysen  
Gallely  
Garrett (NJ)  
Gerlach  
Gilchrest  
Gillmor  
Gingrey  
Goode  
Goodlatte  
Gordon  
Granger  
Graves  
Green (WI)  
Greenwood  
Gutknecht  
Hall  
Harris  
Hart  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hensarling  
Herger  
Hobson  
Hoekstra  
Holden  
Hostettler  
Houghton  
Hulshof  
Hunter  
Hyde  
Isakson  
Issa  
Istook  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, Sam  
Jones (NC)  
Keller  
Kelly  
Kennedy (MN)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline

Knollenberg  
Kolbe  
LaHood  
Larsen (WA)  
Latham  
LaTourette  
Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Lucas (KY)  
Lucas (OK)  
Lynch  
Manzullo  
Matheson  
McCotter  
McCrery  
McHugh  
McInnis  
McKeon  
Menendez  
Mica  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Murphy  
Musgrave  
Myrick  
Nethercutt  
Neugebauer  
Ney  
Northup  
Norwood  
Nunes  
Nussle  
Osborne  
Ose  
Otter  
Oxley  
Paul  
Pearce  
Pence  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Platts  
Pombo  
Pomeroy  
Porter  
Portman  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Ramstad  
Regula  
Rehberg  
Renzi  
Reynolds  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher

## □ 1738

Mr. YOUNG of Alaska and Mr. BLUNT changed their vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 8 OFFERED BY MR. WATT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 164, noes 249, not voting 20, as follows:

[Roll No. 53]

AYES—164

Abercrombie  
Ackerman  
Allen  
Andrews  
Baca  
Baldwin  
Ballance  
Becerra  
Berman  
Boyd  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Boswell  
Boyd  
Brady (PA)  
Brown (OH)  
Brown, Corrine  
Capps  
Capuano  
Cardin  
Carson (IN)  
Carson (OK)  
Case

Chandler  
Clay  
Clyburn  
Coble  
Conyers  
Costello  
Crowley  
Cummings  
Davis (AL)  
Davis (CA)  
Davis (FL)  
DeGette  
Delahunt  
DeLauro  
Deutsch  
Dingell  
Doggett  
Doyle  
Emanuel  
Engel  
Eshoo  
Etheridge  
Evans  
Farr

Fattah  
Filner  
Ford  
Frost  
Gonzalez  
Green (TX)  
Grijalva  
Gutierrez  
Hastings (FL)  
Hill  
Hinchey  
Hoeffel  
Holt  
Honda  
Hooley (OR)  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
Johnson, E. B.  
Jones (OH)

## NOES—249

Aderholt  
Akin  
Alexander  
Bachus  
Baird  
Baker  
Ballenger  
Barrett (SC)  
Bartlett (MD)  
Barton (TX)  
Bass  
Beauprez  
Bereuter  
Biggart  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bonner  
Boozman  
Boucher  
Bradley (NH)  
Brady (TX)  
Brown (SC)  
Brown-Waite,  
Ginny  
Burgess  
Burns  
Burr  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Carter  
Castle  
Chabot  
Chocola  
Cole  
Collins  
Cooper  
Cox  
Cramer  
Crane  
Crenshaw  
Cubin  
Culberson  
Cunningham  
Davis (TN)  
Davis, Jo Ann  
Davis, Tom  
Deal (GA)  
DeFazio  
DeLay  
DeMint  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dooley (CA)  
Doolittle

Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Emerson  
English  
Everett  
Feeney  
Ferguson  
Flake  
Foley  
Forbes  
Fossella  
Franks (AZ)  
Frelinghuysen  
Gallely  
Garrett (NJ)  
Gerlach  
Gilchrest  
Gillmor  
Gingrey  
Goode  
Goodlatte  
Gordon  
Granger  
Graves  
Green (WI)  
Greenwood  
Gutknecht  
Hall  
Harris  
Hart  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hensarling  
Herger  
Hobson  
Hoekstra  
Holden  
Hostettler  
Houghton  
Hulshof  
Hyde  
Isakson  
Issa  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, Sam  
Jones (NC)  
Keller  
Kelly  
Kennedy (MN)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline  
Knollenberg  
Kolbe

LaHood  
Langevin  
Larsen (WA)  
Latham  
LaTourette  
Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
LoBiondo  
Lucas (KY)  
Lucas (OK)  
Lynch  
Manzullo  
Matheson  
McCotter  
McCrery  
McHugh  
McInnis  
McKeon  
Mica  
Michaud  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Moran (VA)  
Murphy  
Musgrave  
Myrick  
Nethercutt  
Neugebauer  
Ney  
Northup  
Norwood  
Nunes  
Nussle  
Osborne  
Ose  
Otter  
Oxley  
Paul  
Pearce  
Pence  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Platts  
Pombo  
Pomeroy  
Porter  
Portman  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Ramstad  
Regula  
Rehberg  
Renzi  
Reynolds  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)

Rohrabacher	Smith (MI)	Turner (OH)
Ros-Lehtinen	Smith (NJ)	Upton
Royce	Smith (TX)	Vitter
Ruppersberger	Smith (WA)	Walden (OR)
Ryan (WI)	Souder	Walsh
Ryun (KS)	Stearns	Wamp
Saxton	Stenholm	Weldon (FL)
Schrock	Sullivan	Weldon (PA)
Scott (GA)	Sweeney	Weller
Sensenbrenner	Tancred	Whitfield
Sessions	Tanner	Wilson (NM)
Shadegg	Taylor (MS)	Wilson (SC)
Shaw	Taylor (NC)	Wolf
Shays	Terry	Wu
Sherwood	Thomas	Wynn
Shimkus	Thornberry	Young (AK)
Shuster	Tiahrt	Young (FL)
Simmons	Tiberi	
Simpson	Toomey	

## NOT VOTING—20

Bell	Gibbons	Miller (FL)
Berkley	Goss	Pelosi
Bono	Harman	Rodriguez
Cardoza	Hinojosa	Tauzin
Davis (IL)	Hunter	Udall (CO)
Frank (MA)	Istook	Wicker
Gephardt	Kucinich	

## ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1745

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. BASS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, pursuant to House Resolution 552, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 276, nays 139, not voting 18, as follows:

[Roll No. 54]

YEAS—276

Aderholt	Ferguson	McHugh
Akin	Flake	McInnis
Alexander	Foley	McIntyre
Bachus	Forbes	McKeon
Baird	Ford	McNulty
Baker	Fossella	Menendez
Ballenger	Franks (AZ)	Mica
Barrett (SC)	Frelinghuysen	Michaud
Bartlett (MD)	Gallegly	Miller (MI)
Barton (TX)	Garrett (NJ)	Miller, Gary
Bass	Gerlach	Moore
Beauprez	Gilchrest	Moran (KS)
Bereuter	Gillmor	Moran (VA)
Berry	Gingrey	Murphy
Biggett	Goode	Musgrave
Bilirakis	Goodlatte	Myrick
Bishop (GA)	Gordon	Nethercutt
Bishop (UT)	Granger	Neugebauer
Blackburn	Graves	Ney
Blunt	Green (TX)	Northup
Boehlert	Green (WI)	Norwood
Boehner	Greenwood	Nunes
Bonilla	Gutknecht	Nussle
Bonner	Hall	Osborne
Bono	Harris	Ose
Boozman	Hart	Otter
Boucher	Hastings (WA)	Oxley
Boyd	Hayes	Pearce
Bradley (NH)	Hayworth	Pence
Brady (TX)	Hefley	Peterson (MN)
Brown (SC)	Hensarling	Peterson (PA)
Brown-Waite,	Herger	Petri
Ginny	Hill	Pickering
Burgess	Hobson	Pitts
Burns	Hoekstra	Platts
Burr	Holden	Pombo
Burton (IN)	Hooley (OR)	Pomeroy
Buyer	Hostettler	Porter
Calvert	Houghton	Portman
Camp	Hulshof	Pryce (OH)
Cannon	Hunter	Putnam
Cantor	Hyde	Quinn
Capito	Isakson	Radanovich
Carson (OK)	Issa	Ramstad
Carter	Istook	Regula
Castle	Jenkins	Rehberg
Chabot	John	Renzi
Chocola	Johnson (CT)	Reynolds
Coble	Johnson (IL)	Rogers (AL)
Cole	Johnson, Sam	Rogers (KY)
Collins	Jones (NC)	Rogers (MI)
Cooper	Keller	Rohrabacher
Cox	Kelly	Ros-Lehtinen
Cramer	Kennedy (MN)	Ross
Crane	Kind	Royce
Crenshaw	King (IA)	Ruppersberger
Cubin	King (NY)	Ryan (WI)
Culberson	Kingston	Ryun (KS)
Cunningham	Kirk	Sandlin
Davis (AL)	Kline	Saxton
Davis (TN)	Knollenberg	Schrock
Davis, Jo Ann	Kolbe	Scott (GA)
Davis, Tom	LaHood	Sensenbrenner
Deal (GA)	Lampson	Sessions
DeFazio	Langevin	Shadegg
DeLay	Larsen (WA)	Shaw
DeMint	Larson (CT)	Shays
Diaz-Balart, L.	Latham	Sherwood
Diaz-Balart, M.	LaTourette	Shimkus
Dicks	Leach	Shuster
Dooley (CA)	Lewis (CA)	Simmons
Doolittle	Lewis (KY)	Simpson
Doyle	Linder	Skelton
Dreier	LoBiondo	Smith (MI)
Duncan	Lucas (KY)	Smith (NJ)
Dunn	Lucas (OK)	Smith (TX)
Edwards	Lynch	Smith (WA)
Ehlers	Manzullo	Souder
Emerson	Marshall	Spratt
English	Matheson	Stearns
Everett	McCotter	Stenholm
Feeney	McCrery	Sullivan

Sweeney	Tiberi	Weller
Tancred	Toomey	Whitfield
Tanner	Turner (OH)	Wilson (NM)
Tauscher	Turner (TX)	Wilson (SC)
Taylor (MS)	Upton	Wolf
Taylor (NC)	Vitter	Wu
Terry	Walden (OR)	Wynn
Thomas	Walsh	Young (AK)
Thompson (CA)	Wamp	Young (FL)
Thornberry	Weldon (FL)	
Tiahrt	Weldon (PA)	

NAYS—139

Abercrombie	Hoeffel	Olver
Ackerman	Holt	Ortiz
Allen	Honda	Owens
Andrews	Hoyer	Pallone
Baca	Inslee	Pascarell
Baldwin	Israel	Pastor
Ballance	Jackson (IL)	Paul
Becerra	Jackson-Lee	Payne
Berman	(TX)	Price (NC)
Bishop (NY)	Jefferson	Rahall
Blumenauer	Johnson, E. B.	Rangel
Boswell	Jones (OH)	Reyes
Brady (PA)	Kanjorski	Rothman
Brown (OH)	Kaptur	Roybal-Allard
Brown, Corrine	Kennedy (RI)	Rush
Capps	Kildee	Ryan (OH)
Capuano	Kilpatrick	Sabo
Cardin	Klecza	Sánchez, Linda
Case	Lantos	T.
Chandler	Lee	Sanchez, Loretta
Clay	Levin	Sanders
Clyburn	Lewis (GA)	Schakowsky
Conyers	Lipinski	Schiff
Costello	Lofgren	Scott (VA)
Crowley	Lowey	Serrano
Cummings	Majette	Sherman
Davis (CA)	Maloney	Slaughter
Davis (FL)	Markey	Snyder
DeGette	Matsui	Solis
Delahunt	McCarthy (MO)	Stark
DeLauro	McCarthy (NY)	Strickland
Deutsch	McCollum	Stupak
Dingell	McDermott	Thompson (MS)
Doggett	McGovern	Tierney
Emanuel	Meehan	Towns
Engel	Meek (FL)	Udall (NM)
Eshoo	Meeks (NY)	Van Hollen
Etheridge	Millender-	Velázquez
Evans	McDonald	Visclosky
Farr	Miller (NC)	Waters
Fattah	Miller, George	Watson
Filner	Mollohan	Watt
Frost	Murtha	Waxman
Gonzalez	Nadler	Weiner
Grijalva	Napolitano	Wexler
Gutierrez	Neal (MA)	Woolsey
Hastings (FL)	Oberstar	
Hinchey	Obey	

NOT VOTING—18

Bell	Gephardt	Miller (FL)
Berkley	Gibbons	Pelosi
Cardoza	Goss	Rodriguez
Carson (IN)	Harman	Tauzin
Davis (IL)	Hinojosa	Udall (CO)
Frank (MA)	Kucinich	Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1803

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity."

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, I was unavoidably absent during some of the votes on amendments to H.R. 339, the "Personal Responsibility in Food Consumption Act." I would like the Record to reflect that, had I been present, I would have voted in the following manner:

Watt No. 6/ Scott (exempt state actions to enforce state consumer protection laws concerning mislabeling or other unfair and deceptive trade practices): "Yes."

Watt No. 7 (preserve the right of state courts to hear cases brought under state law): "Yes."

Andrews No. 2 (exempt manufacturers of genetically modified foods that do not disclose that the food is genetically modified from the legal immunity provided in the bill): "Yes."

Ackerman No. 1 (exempt manufacturers and sellers of foods that have not taken steps to prevent meat from being tainted with mad cow disease from the legal immunity provided in the bill): "Yes."

## ELECTION OF MEMBERS TO COMMITTEE ON GOVERNMENT REFORM

Mr. LEACH. Mr. Speaker, I offer a resolution (H. Res. 553) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 553

*Resolved*, That the following Members be and are hereby elected to the following standing committee of the House of Representatives:

Committee on Government Reform: Mr. Tiberi and Ms. Harris.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on additional motions to suspend the rules on which a record vote or the yeas and nays are ordered or on which a vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

## COMMENDING INDIA ON ITS CELEBRATION OF REPUBLIC DAY

Mr. LEACH. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 15) commending India on its celebration of Republic Day.

The Clerk read as follows:

H. CON. RES. 15

Whereas the Republic of India is the world's largest democracy;

Whereas on January 26, 1950, India adopted its Constitution, which formalized India as a parliamentary democracy;

Whereas the celebration of India's Republic Day on January 26th is the second most important national holiday after Independence Day;

Whereas the framers of India's Constitution were greatly influenced by the American Founding Fathers James Madison, Alexander Hamilton, and John Adams;

Whereas among the rights and freedoms provided to the people of India under its Constitution is universal suffrage for all men and women over the age of eighteen;

Whereas India's Constitution adopted the American ideals of equality for all citizens, regardless of faith, gender, or ethnicity;

Whereas the basic freedoms we cherish in America such as the freedom of speech, freedom of association, and freedom of religion are also recognized in India;

Whereas Mohandas Mahatma Gandhi is recognized around the world as the father of India's nonviolent struggle for independence;

Whereas people of many faiths, including Hindus, Muslims, Sikhs, and Christians, were united in securing India's freedom from colonial rule and have all served in various capacities in high-ranking government positions;

Whereas the Republic of India has faithfully adhered to the principles of democracy by continuing to hold elections on a regular basis on the local, regional, and national levels;

Whereas the people of the United States and the Republic of India have a common bond of shared values and a strong commitment to democratic principles; and

Whereas President George W. Bush and Prime Minister Atal Bihari Vajpayee are elected leaders of the world's two largest democracies and are actively cultivating strong ties between the United States and India: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) commends India on its celebration of Republic Day; and

(2) reiterates its support for continued strong relations between the United States and India.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

## GENERAL LEAVE

Mr. LEACH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of House Concurrent Resolution 15, a measure commending India on its Republic Day and reiterating congressional support for continued strong relations between India and the United States.

This thoughtful concurrent resolution was introduced by the gentleman

from South Carolina (Mr. WILSON), the distinguished head of the Indian Caucus, and our colleague on the Committee on International Relations, the gentleman from New York (Mr. CROWLEY). It was considered and adopted without amendment by the committee on February 25.

As Members are aware, in recent years the relationship between the United States and India has been fundamentally transformed in exceptionally positive ways. Thankfully, the time has long since passed when it could be said that India and America are democracies estranged. Instead, in recognition both of the end of the Cold War and India's embrace of market economics, our two great countries have not only rediscovered each other but developed a remarkable degree of amity and rapport.

The United States/India political relationship is rapidly maturing. We are having regular meetings at the highest levels of government. At the summit in Washington in November 2001, President Bush and Prime Minister Vajpayee articulated their vision of the relationship our countries should enjoy. The prime minister insightfully described it as a natural partnership.

Our deepening government-to-government relationship is complemented by a rich mosaic of expanding people-to-people ties. In many ways, the more than 2 million Indian Americans in the United States have become a living bridge between our two great democracies, bringing together our two peoples, as well as greatly enlarging the United States' understanding of India and Indian understanding of the United States.

In short, this timely resolution appropriately honors the world's largest democracy, a country with which the United States is enjoying increasingly warm ties and a people for whom Americans have a great and enduring affection.

I urge the adoption of this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution.

Madam Speaker, I first would like to commend the chairman of our committee, the gentleman from Illinois (Mr. HYDE), for moving forward with this legislation so expeditiously.

This important resolution commends India on its celebration of Republic Day which occurs on January 26. While we may be a few weeks late in commemorating this important event, our enthusiasm for reaffirming the strong and unbreakable ties between the United States and India remain strong.

Madam Speaker, a new chapter in the bilateral relationship between the United States and India was opened with President Clinton's historic visit to India 4 years ago. President Clinton and Prime Minister Vajpayee broke

decades of ice which covered our relationship and ushered in a new and unprecedented form of cooperation between our two great democratic nations.

The most dramatic demonstration of our new friendship with India was India's immediate offer of full cooperation in the war on terrorism after the September 11 tragedy and its willingness to allow the use of Indian bases for counterterrorism operations. But in so many other ways, the tenor and tempo of our bilateral cooperation has continued to improve remarkably over the past 4 years. Security cooperation between the United States and India has increased significantly, with the United States providing funds for military assistance, counternarcotics aid, and other forms of military training. We are working with the Indian government to rationalize India's economy to promote American investment in India and to accelerate India's economic growth.

We are also working closely with the Indian government to tackle the spread of HIV/AIDS. As the executive branch moves forward with the implementations of the Global HIV/AIDS bill approved by us last year, it is critically important that funding for India be increased. In short, Madam Speaker, the United States and India are developing close partnerships on key security, political and humanitarian matters, partnerships that will further strengthen the already close ties between our two great nations. But there is no stronger relationship between the United States and India than our shared commitment to democracy and civil society. We are truly natural allies.

We must also be mindful at all times of the enormous strides taken by Prime Minister Vajpayee towards peace with Pakistan. Time and again it has been India that has reached out to its neighbor in the cause of peace. I fervently hope that this time the discussions between the two nations will finally bear fruit. India is the world's largest democracy with almost a billion people. Its democratic form of government rests solidly on the Indian constitution. So as we commemorate the day that India formally adopted its constitution, we celebrate the strength of India's democracy, the vitality of the Indian people and U.S.-Indian friendship. I urge all of my colleagues to support H. Con. Res. 15.

Madam Speaker, I reserve the balance of my time.

Mr. LEACH. Madam Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. WILSON), the chairman of the India Caucus.

Mr. WILSON of South Carolina. Madam Speaker, I am honored to speak today as the co-chair of the Caucus on India and Indian Americans, the largest country caucus on Capitol Hill with 183 members. I am grateful for the leadership of the prior co-chairman, the gentleman from California (Mr. ROYCE). I support this truly historic

resolution which praises India's firm commitment to democratic principles.

On January 26, 1950, after a long struggle for freedom led by Mahatma Gandhi, India began its formal existence as a parliamentary democracy. Republic Day is the second most important national holiday in India after Independence Day, which is celebrated on August 15.

India modelled its constitution after America's and both our nations believe that the freedoms enshrined in the constitution are universal for all human beings.

India's national elections occur next month, a historic occasion with more than the 600 million that voted in the last election expected to vote next month. The last national elections in 1999 had the largest voter participation of any election in world history.

India's creation and adherence to a national constitution can serve as an example to newly liberated countries like Iraq of how much can be gained by creating a constitution supported by the people and respected by democratic institutions.

India's struggles and success can be a source of inspiration to the people of Iraq. Since independence, India has struggled with high poverty and illiteracy rates, maintained a socialist economy, endured numerous conflicts with Pakistan, and sometimes even experienced internal conflicts between various religious and ethnic groups in India. Yet India has risen to the challenge every time, showing the rest of the world that a nation of more than a billion people can consistently adhere to elections at the local, state, and national levels and overcome challenges in its path.

India has dramatically reduced its poverty and illiteracy rates and recently opened its economy to the world, experiencing nearly an 8 percent economic growth during the last fiscal year. India and Pakistan have begun a composite dialogue with the prospect of a negotiated agreement to the Kashmir dispute on the horizon. And India continues to make improvements to its economic infrastructure, judicial system, and electoral process to ensure that the freedoms outlined in the constitution are truly protected for all of India's people. India is most deserving of today's congressional recognition of this faithful adherence to democracy for more than 50 years.

America and India have entered into a new era of friendship with victory in the Cold War. India as the world's largest democracy and America as the world's oldest democracy are realizing more every day that we have shared values.

I want to commend President George W. Bush for his leadership in bringing America and India closer together as allies with his vision of a new strategic partnership.

In conclusion, I would like to thank both the gentleman from Iowa (Mr. LEACH), chairman of the Subcommittee

on East Asia and the Pacific, and the gentleman from Illinois (Mr. HYDE), chairman of the Committee on International Relations, for allowing the committee to consider and pass this historic and important resolution. I urge my colleagues to support House Concurrent Resolution 15.

Mr. LANTOS. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. ENGEL), an important member of the House Committee on International Relations.

Mr. ENGEL. Madam Speaker, I thank the gentleman for yielding me time.

I rise in strong support of H. Con. Res. 15, which commends India on its celebration of Republic Day and reiterates its support for continued strong relations between the United States and India.

My colleagues have all talked about the importance of this relationship. I for many years in the Congress have always tried to stress this relationship. I am pleased to say that I was one of the founding original members of the Indian Caucus and have remained a member of the Indian Caucus. And as it was pointed out, it is the largest caucus here on Capitol Hill, and with good reason. As my colleagues have mentioned, India and the United States share common values: the oldest democracy, the United States; and the biggest democracy, India.

□ 1815

It is not easy to be a democracy for as many years as we have been a democracy and for the people of India who have struggled to be a democracy. So we have shared values and shared concerns. We have many, many Indian Americans in this country, and we celebrate our Indian American friends and what they have added to the United States of America, and that also solidifies the ties between India and the United States.

I had the pleasure of visiting India a few years ago, and I was amazed by the warmth I felt by the people who wanted to be close to Americans. During the days of the Cold War sometimes the ties between India and the United States were strained. It never made any sense to me, but since the end of the Cold War, we have moved very closely together to ensure that the ties between India and the United States are strong, remain strong and continue to get strong year by year.

It certainly makes a lot of sense. India's a strategic partner of the United States. India has the same concerns as the United States, fighting terrorism on its borders and inside its country. India stands with the United States as a strong fighter in the war against terrorism, and India also is very concerned by other countries that surround India or near India, and the United States also needs to share those concerns.

So H. Con. Res. 15, in congratulating India, points out the strong bonds between our two Nations, and those of us

in Congress on both sides of the aisle will continue to work to strengthen ties between two great democracies, India and the United States.

Mr. LEACH. Madam Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. ROYCE) who is a member of the Subcommittee on Asia and the Pacific, chairman emeritus of the India Caucus, as well as a leader in Congress on many Asian issues.

Mr. ROYCE. Madam Speaker, I thank the gentleman from Iowa (Mr. LEACH) for yielding me the time, and I am only going to take maybe a minute here to say that I am a cosponsor of this resolution, but I think most of the resolutions that we deal with here in this Chamber that come to this floor rightly focus on what is wrong throughout the world, whether it is the authoritarian regime of Robert Mugabe in Zimbabwe or Kim Jong Il in North Korea. In this context, I think it is proper for the House to recognize positive developments, and in this case, that positive development is the vibrant democracy that is India.

India adopted that Constitution on January 26 of 1950 that formalized her identity as a parliamentary democracy, and the framers of India's constitution were greatly influenced by our Founding Fathers. I had an opportunity to talk to one of those framers, and he made the point that many of the same freedoms that are enshrined in our Constitution are enshrined in theirs for a reason.

So today, yes, India's the world's largest democracy and that is an impressive distinction. It is an incredible commitment when we think of 600 million people going and filing their ballots in a democratic election, but the other point I think that we are focused on tonight is the fact that it is India's growth as a world power that is creating a chance for peace and for stability in south Asia.

Last month, members of the Committee on International Relations had a chance to meet with India's foreign minister to discuss the growing bilateral relationship in the areas of space and of science, and I think this resolution signals Congress' interest in furthering this important relationship.

I would also be remiss if, in closing, I did not mention the growing contribution of the Indian American community here in the United States. I have always been impressed with, when working with that community, their energy, their enthusiasm and indeed their dedication to education. Their upward social mobility through education is unmatched, and I think that that particular community possesses some of our most effective future leaders in this country.

So, with that said, I urge passage of this resolution, and I thank the gentleman for yielding me the time.

Mr. LANTOS. Madam Speaker, we reserve the balance of our time.

Mr. LEACH. Madam Speaker, we have no further requests for time, and

I yield myself such time as I may consume.

In conclusion, I would simply like to express my personal appreciation for the gentleman from South Carolina (Mr. WILSON) and the gentleman from California (Mr. ROYCE) for their leadership on so many Indian affairs, and particularly for this bipartisan expression of admiration for India and its achievements, and for the gentleman from California (Mr. LANTOS) and the gentleman from New York (Mr. ENGEL), two leaders of this House on Indian affairs.

Yes, it has been noted that India is the world's largest democracy, but it also should be made clear it is one of the oldest and greatest civilizations on this planet with evidence of civil society dating back many millennium before Christ.

In the years since its modern day independence in 1947, it has produced some of the greatest leaders in modern times: Mr. Gandhi and his doctrine of nonviolence, civil disobedience. The doctrine of Sarjag Hagahoth is a great symbol and inspiration for many citizens of the globe. Mr. Nehru stood for a great international leadership of independence and neutrality, and then in the new era of Mr. Vajpayee we have an India dedicated to economic development and market forces, all of which betokens in terms of history, in terms of longevity of civilization, a modern day society that is one of the greatest on this planet, and we in this body are deeply impressed.

Madam Speaker, I reserve the balance of my time.

Mr. ACKERMAN. Madam Speaker, I rise today in support of H. Con. Res. 15 and congratulate my colleague Mr. WILSON of South Carolina for his sponsorship of the resolution.

Madam Speaker, the resolution before us today commends India on its celebration of Republic Day and urges continued strong bilateral relations between the United States and India. But there is much more to celebrate than simply India's Republic Day. There are the commonalities between the U.S. and India, in particular both are thriving multi-cultural democracies. India is the largest and the U.S. is the oldest. This year both nations are in the midst of the great democratic tradition of elections. India's elections begin later this month and run through the beginning of April.

Beyond our common experiences with democracy, the United States and India have been growing ever closer over the last several years. Beginning with President Clinton's trip to India in 2000, the U.S.-India relationship has truly blossomed over the last several years.

In the immediate aftermath of the horrendous attacks on the World Trade Center and the Pentagon, India was the first nation to step forward and offer unqualified support and assistance to us. Just a few months later, India suffered a devastating attack in the heart of its democracy, the parliament building in New Delhi. These events underscore the fact that both nations have faced, and continue to face, serious threats from global terrorist organizations.

These unfortunate events have led to a significant expansion of the U.S.-India relation-

ship into areas where our two nations had not previously cooperated: defense and counterterrorism. Evidence of the new and intense level of cooperation in these areas can be found in the most recent joint exercises between air force units of the United States and India in central India just last month.

On the other aspects of our relationship, like the newly announced U.S.-India Strategic Partnership and a steady stream of senior level visits in both capitals speak volumes regarding the robust nature of our relationship. So it is only fitting Mr. Speaker, that the Congress, join the chorus of voices in recognizing that the oldest and largest democracies are on a new and welcome path bilaterally.

Madam Speaker, I urge my colleagues to support the resolution.

Mrs. MALONEY. Madam Speaker, I rise in strong support of H. Con. Res. 15, which commends India on its celebration of Republic Day and expresses congressional support for continued strong relations between the United States and India.

As the largest democracy in the world, India has shown a genuine commitment to improving its economic ties to the United States, and the U.S. and India have formally committed to work together to build peace and security in South Asia, increase bilateral trade and investment, meet global environmental challenges, fight disease, and eradicate poverty.

There is no doubt that the close relationship between the U.S. and India is crucial to world stability and to the economic futures of both countries. India's long-term economic potential is tremendous, and the U.S. is already its largest trading and investment partner.

I am hopeful that we will foster an even closer relationship in the coming years by working together to tackle new and existing challenges.

Mr. FALEOMAVAEGA. Madam Speaker, I rise today in support of H. Con. Res. 15, commending India on its celebration of Republic Day. India is the world's largest democracy and Republic Day is India's second most important national holiday.

India became a Republic on January 26, 1950, adopting a written Constitution and electing its first democratic parliament. Prior to independence, India was under British rule.

Today, India stands with the people of the United States. The Republic of India and the United States have a common bond of shared values and a strong commitment to democratic principles.

We are also united in the war against terrorism. As the Ranking Members of the International Relations Subcommittee. I will not rest until Pakistan makes good on its promises to end cross border terrorism, shut down its terrorist training camps, and cease the transfer of nuclear technology to rogue nations and third parties.

I commend India for its continued commitment to peace and for promoting the ideals of equality for all citizens, regardless of faith, gender or ethnicity. I also pay tribute to Mahandas Mahatma Gandhi who is recognized as the father of India's nonviolent struggle for independence.

Finally, I express my appreciation to Prime Minister Atal Bihari Vajpayee for his leadership in cultivating strong ties with the United States and for initiating historic talks with Pakistan in hopes of decreasing tensions in South Asia. I

also knowledge the contributions of His Excellency Lalit Mansingh, Ambassador of the Republic of India, who has represented the interests of India before the U.S. Congress in a manner that has strengthened U.S.-India relations.

I also applaud the efforts of Sanjay Puri, founder and Executive Director of an organization working to influence policy on issues of concern to the Indian American community. With a membership of 27,000, this organization is giving more than 2 million Indian Americans a voice in the political process and I believe both India and the United States are fortunate to have more than 27,000 Indian Americans working with us to address important issues like terrorism, trade, HIV/AIDS, and immigration.

Again, I applaud the efforts of so many and I commend India on its celebration of Republic Day.

Mr. HOYER. Madam Speaker, I urge all of my colleagues to support this important Resolution commending the incredibly diverse, democratic nation of India on the celebration of its Republic Day.

This Resolution reiterates the overwhelming Congressional support for continued strong relations between the United States and India. And it notes India's commitment, under the Indian constitution, for universal suffrage; equality for all citizens, regardless of faith, gender, or ethnicity; and protections for freedom of speech, association and religion.

Our two nations are "natural allies," as Prime Minister Vajpayee has stated. For while our alliance is relatively young, it has already begun to flourish based on our shared values and commitment to democratic principles.

In recognition of our growing relationship, the gentleman from New York (Mr. CROWLEY) and I led a delegation of nine members of Congress to India in January.

During our trip, we were privileged to be received by a number of Mr. Vajpayee's Ministers and we engaged key policymakers in thoughtful discussions on issues ranging from Kashmir and Pakistan to this year's national elections in both India and the United States.

While we certainly discussed, and even debated, a number of issues on which our countries have legitimate differences, the lasting impressions were the broad areas of agreement and cooperation, and the strength and dynamism of the growing U.S.-India relationship.

Madam Speaker, the mutual respect demonstrated in these discussions was a clear sign of our maturing relationship and the trust between us.

For example, our armed forces now regularly participate in joint exercises involving all branches of the military, and the sale of U.S. military equipment to India approached \$200 million last year.

In the immediate aftermath of the September 11 terrorist attacks, India pledged its full cooperation and offered the use of all its military bases for counterterrorism efforts. And India continues to play a key role in stabilization and reconstruction efforts in Afghanistan.

Our economic cooperation also is noteworthy. In fact, the nearly 60% increase in total trade between the United States and India since 1996 illustrates that.

With more than 1 billion citizens, India still faces many problems. And the increasing engagement with the United States will help India to address them.

Mr. LANTOS. Madam Speaker, I want to commend all of my colleagues who spoke on behalf of this important resolution.

Madam Speaker, we have no further requests for time and we yield back the balance of our time.

Mr. LEACH. Madam Speaker, we yield back the balance of our time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 15.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### EXPRESSING CONDOLENCES OF HOUSE OF REPRESENTATIVES FOR UNTIMELY DEATH OF MACEDONIAN PRESIDENT BORIS TRAJKOVSKI

Mr. BEREUTER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 540) expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski, as amended.

The Clerk read as follows:

##### H. RES. 540

Whereas on February 26, 2004, President Boris Trajkovski of the Republic of Macedonia was tragically killed in a plane crash in Bosnia-Herzegovina while he was on his way to an international investment conference;

Whereas Mr. Trajkovski served Macedonia as Deputy Minister of Foreign Affairs from December 21, 1998 until he was inaugurated as President on December 15, 1999;

Whereas Mr. Trajkovski stood up for what he believed was right and moral, even when he faced opposition within Macedonia;

Whereas under Mr. Trajkovski's leadership, Macedonia was one of the first countries to publicly support Operation Iraqi Freedom and to commit troops to the effort;

Whereas during Macedonia's armed ethnic clashes Mr. Trajkovski demonstrated his willingness to work with all of Macedonia's ethnic groups, which helped to prevent a civil war;

Whereas Mr. Trajkovski was a strong believer in free markets and worked tirelessly to bring development and investment to Macedonia;

Whereas under President Trajkovski's leadership, Macedonia negotiated an agreement with the United States under Article 98 of the Rome Statute of the International Criminal Court, signed the agreement on June 30, 2003, and ratified the agreement on October 16, 2003, thereby helping to ensure United States citizens will not be subject to politically motivated prosecutions;

Whereas Mr. Trajkovski worked to foster peace for the entire Balkan region and to integrate Macedonia into the international community; and

Whereas the death of Mr. Trajkovski is a tragedy for the people of Macedonia: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses its deepest sympathies to the people of the Republic of Macedonia, the family of President Boris Trajkovski, and the families of the other crash victims;

(2) expresses its desire for a smooth and orderly transition of power; and

(3) expresses the solidarity of the people of the United States with the people of Macedonia and the Macedonian Government during this tragedy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

##### GENERAL LEAVE

Mr. BEREUTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 540, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this Member rises in support of H. Res. 540, as amended, expressing the condolences and deepest sympathy of the U.S. House of Representatives upon the death of Macedonian President Boris Trajkovski. This resolution was introduced by the distinguished gentleman from Indiana (Mr. SOUDER).

On February 26, 2004, President Boris Trajkovski of the former Yugoslav republic of Macedonia was tragically killed in a plane crash over Bosnia-Herzegovina, while traveling to Moscow to attend a regional economic conference. He and eight other individuals on the aircraft died in this tragic accident. This Member understands the official State funeral was held Friday of last week in Skopje.

President Trajkovski is one of the most important reasons why Macedonia is making the progress it has made in recent years. President Trajkovski was an important leader and voice of reason in resolving the ethnic conflict that was threatening his country 3 years ago and in implementing the Ohrid peace agreement of August 2001. His leadership and moderation between opposing sides have been absolutely essential in creating the conditions for the progress that his government and his country have made since then.

He worked tirelessly to ensure that democratic values and institutions would prevail in his country and to bring his country closer towards full

integration in the Euro-Atlantic institutions. In May of last year, his country joined Croatia and Albania in signing the Adriatic Charter, an agreement to commit to reforms and cooperation in order to prepare these countries for accession into NATO. His country has been a strong supporter of the international war against terrorism and has contributed forces to operations in both Afghanistan and Iraq. Tragically, his country was scheduled to formally submit its application to become a candidate for membership in the European Union last week on February 26, tragic only because that was the very day of the tragic accident.

Historically, President Trajkovski will be most known for saving his country from civil war. This resolution recognizes that fact and his leadership and his importance to his country. This resolution is an affirmation that the U.S. House of Representatives supports the reforms that President Trajkovski implemented and the progress that all Macedonians have made. May the government of Macedonia and the people of Macedonia continue to follow his example and continue along his path of reform, progress, peace and democracy.

This Member would like to express his deepest sympathies and condolences to his family, to his country and to all the Macedonian people and urge his colleagues in this House to support passage of the resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

I rise in sad and strong support of this resolution. I want to associate myself with the remarks of my good friend from Nebraska, and I want to join him and all other Members in offering our deepest condolences on the tragic death of President Boris Trajkovski, to the people of Macedonia and to his family. President Trajkovski is survived by his wife and two children, and I want to extend our expressions of sympathy to his entire family and to all the citizens of Macedonia.

The Balkans have seen more than their share of turbulence in the past couple of decades. Macedonia alone has attained independence, wrestled with economic challenges, overcame ethnic tensions between Macedonian Slavs and the Albanian minority. Outside of Macedonia, there are still people in the Balkans who strive to return to their homes to attain international recognition and to secure their statehood. Our involvement in the region must continue to be vigorous and effective.

The leadership of President Trajkovski stands out in the Balkan context. He was a voice for moderation and reason who united his country and led it on the path of integration with the European Union and membership in NATO. I was privileged to meet him a little while ago, with our distinguished chairman, the gentleman from Illinois

(Mr. HYDE) to discuss his vision for Macedonia and for the region, and both the gentleman from Illinois (Mr. HYDE) and I were deeply impressed by his passionate commitment to his people and to building a democratic society.

Just on the day of this tragic event, a Macedonian delegation was due to present a Macedonian-EU partnership application to the government of Ireland which currently holds the presidency of the European Union. I was pleased to learn that, although the visit of the Macedonian delegation was cut short by the tragic events, the government of Macedonia followed through and did submit its application to the European Union.

□ 1830

Last year, Madam Speaker, Macedonia signed the U.S. Adriatic Charter, affirming its commitment to the values and principles of NATO and to joining the alliance at the earliest possible time. Macedonia has been a true friend of the United States. It stands with us in the war on terrorism and has provided troops both in Afghanistan and Iraq.

So today, Madam Speaker, as we honor the memory of President Trajkovski and mourn his tragic death, we reaffirm the close friendship and partnership we have with Macedonia and we express our desire that this relationship grow stronger under the new leadership that the Macedonian people will soon choose. I am confident that Macedonia will stay firmly on the path to democracy and integration with the Euro-Atlantic community, and I urge all of my colleagues to support H. Res. 540.

Madam Speaker, I reserve the balance of my time.

Mr. BEREUTER. Madam Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER), the sponsor of the resolution.

(Mr. SOUDER asked and was given permission to revise and extend his remarks.)

Mr. SOUDER. Madam Speaker, I wish to thank the chairman of the Subcommittee on Europe, the gentleman from Nebraska (Mr. BEREUTER); the chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE); and the ranking member, the gentleman from California (Mr. LANTOS), for moving this piece of legislation.

Just a few moments ago, we discussed a resolution in support of Republic Day in India, the world's largest democracy, and a country with a rich, long tradition and of great importance to the United States. This resolution addresses a relatively new and small democracy, the Republic of Macedonia, but also of importance to the United States.

Our friend, the Republic of Macedonia, has just lost its leader. Two weeks ago, the man many believed would lead Macedonia was tragically

killed in a plane crash. Now, the future of Macedonia is uncertain. The next president of Macedonia may or may not stay on the course charted by Mr. Trajkovski. The next president of Macedonia may or may not work to bring all Macedonians together. The next president may or may not have the esteem Mr. Trajkovski commanded. I certainly hope the next president of Macedonia is able to do all of these things.

As is typical in many new democracies behind the old Iron Curtain, President Trajkovski did not have a long record of public service. In 1997, Mr. Trajkovski became Chief of Office in a local government administration. In 1988, he was appointed to the post of Deputy Minister of Foreign Affairs. In 1999, he was inaugurated president of the Republic of Macedonia. What Mr. Trajkovski's public service lacked in longevity, however, it more than made up for in terms of quality and the impact that his policies and principles will have far into Macedonia's future.

During Macedonia's ethnic troubles, he realized that peace was better than war. He reached out to the Albanians and Macedonians alike. As a Methodist minister in an Orthodox Christian country, establishing trust, even among his own people, was no small feat. Yet Mr. Trajkovski brokered a peaceful solution that avoided the further balkanization of the region. It is a little sea of hope in the midst of much conflict.

In looking forward to the future of his country, President Trajkovski realized that economic development was the key to the success of Macedonia. He encouraged investment, free markets, and great international participation. Indeed, he died on his way to an international investors conference. President Trajkovski's contribution to his country's stability and prosperity will not soon be forgotten.

Macedonia worked with the United States in the conflict in Serbia, letting us base multiple operations there, including camps for those who had fled Kosovo, with no small risk to the stability in their country. They are a great friend of the United States, as we have heard, in Iraq and Afghanistan.

It was my privilege to meet President Trajkovski a number of times, and he was a dynamic man. But while he was a great leader as president, he was much more. He was also a good man and a Godly man. He lived his faith, and it undoubtedly influenced every single decision he made in his life and in his leadership. As a devoted family man with a wife and two children, he worked hard to make sure his children had a better future. I have gotten word that the government of Macedonia is working to support the Trajkovski family's future needs. Given the contribution Mr. Trajkovski made to his country, I am glad his family is not forgotten.

In 1996, Mr. Trajkovski visited the United States in order to study the

democratic political process. Judging from his presidency, I would say he learned a great deal. During his time in the United States, he visited my district. The several thousand strong Macedonian community of northeast Indiana maintains close ties with friends and relatives of Macedonia. They are very informed about the political and economic situation there. With the death of Mr. Trajkovski, I am sure they are very concerned what the future holds for the homeland.

In recent days, many people have remembered Boris Trajkovski. One remembrance in particular stands out. In a moving article I am submitting for the RECORD, Jason Miko, an American living in Macedonia, recalls not only President Trajkovski, a powerful leader, but also Boris Trajkovski, a simple man of the people. I would like to read one paragraph in closing.

He writes: "Since thoughts are even now turning to the next president, it is vital to remember the legacy that Boris leaves. More than almost any other figure in the Balkans in modern history, he did the most to bring people together. He was respected by all ethnic groups and had a vision for this country which was 20 years ahead. He often talked about rights, together with individual responsibility, the importance of a civil society together with the need for social communication. But his most important message was one of reconciliation, love, and forgiveness."

Madam Speaker, I submit for the RECORD the complete article from which I just read:

[From the Macedonian Vreme, Mar. 2, 2004]

MY FRIEND BORIS

(By Jason Miko)

My friend Boris Trajkovski passed away last week. I rarely called him "Boris." I usually called him "Mr. President." Sometimes, when we prayed, I referred to him as "my brother, Boris." He wasn't hung up on titles and ceremony and frankly didn't care what people called him though I know he was a little bit hurt when some people in Macedonia referred to him as "citizen Trajkovski" during his first year in office. I think they probably regret that now. They should.

I first met Boris Trajkovski in early 1997. I had moved to Macedonia in the summer of 1996 and got to know him through an American friend of mine who had introduced me to a Macedonian friend of his who knew Boris very well. I honestly cannot remember the very first time we met, but I will never forget the last.

He wasn't my president, but over the past seven years, I came to know Boris as a very dear friend. And while I had the high honor and privilege of seeing him go from international secretary in his party to deputy foreign minister to president, the friendship never changed. We shared a friendship that transcended disagreements, difficult periods, and misunderstandings. Boris was always there for me and he told me about two weeks ago how he loved me. And I know his love was not limited to his family or friends. He loved his fellow citizens and his country as much as his family and friends. He was a big man with a big heart.

When September 11th occurred, his was the third call I received. The first was from a

friend telling me of the disaster and the second was from my parents in Arizona. Another time I remember when he asked me to give strong consideration to hiring a friend of his (long before he was president), in my organization. I didn't hire his friend, but that didn't change our friendship.

It is ironic in a way. Since the tragedy last week, Macedonians of all political stripes and colors, all ethnic groups, all social classes and all religious groupings have been in a funk, a state of shock, at the loss. Boris is much more popular now in death, than he ever was in life. The international community, too, is still reeling from the loss, now coming to the full realization of what a treasure we all had and took for granted. That seems to be the way life works though.

We've heard many people over the past week talk about Boris and say he was their friend. I believe most of them are sincere though I also know that there is, even now, some political posturing going on. I know that Boris held no grudges against anyone and even though he could get angry at people for what they said and did to him, he didn't remain angry for very long. He was that sort of a man—forgiving, understanding and loving. It's a shame we are only now realizing that.

Boris was a rare individual. He stood for what he believed in and he fought for the values he held dear. He was real, not phony like some politicians can be. In fact, in many ways, he wasn't even a politician. I clearly remember, in the summer of 1999, as the Kosovo crisis was ending and thoughts were turning to the presidential elections of the fall, the enthusiasm that people had for him as a candidate. And truthfully, he hadn't even thought of running for president himself until ordinary Macedonians started encouraging him to run. Coming from humble roots in rural Macedonia, he was truly a man of the people and for the people.

Over the past four plus years of his mandate, Boris was able to mingle with the highest and mightiest on this earth and with the most humble. And while he was comfortable in both situations—with kings and queens, presidents and prime ministers on the one hand—he enjoyed himself most with villagers and working men and women of his native Macedonia. How many other elected officials do you know who have gone into villages throughout this country speaking with the common man and woman listening to their hopes, fears and dreams? I hope that you, as Macedonian citizens, will demand that of your next president. It is the legacy that Boris would want.

And since thoughts are even now turning to the next President, it is vital to remember the legacy that Boris leaves. More than almost any other figure in the Balkans in modern history, he did the most to bring people together. He was respected by all ethnic groups and had a vision for this country which was 20 years ahead. He often talked about rights, together with individual responsibility, the importance of a civil society together with the need for social communication. But is most important message was one of reconciliation, love and forgiveness.

These values he held came from his deep faith and convictions. And while he was indeed a Methodist, it is not important to focus on his chosen religious denomination, but on the tenants of that faith. His deep love for the Son of God—Jesus Christ—and his recognition that man is sinful and needs salvation—prompted him to talk about and live a life of love for all mankind. I remember him—on many occasions—talking about how he was willing to "sacrifice myself" for Macedonia. And ultimately, Boris did pay the ultimate price for his fellow man and his country—he gave us his life. He gave Mac-

edonia his life that Macedonia might come together and yet live again.

I hope that by giving up his life for his fellow man that something good will come of this. Something good must come of this. It can start here in Macedonia but it can spread throughout the Balkans and the world. And it is this: a life lived for his fellow man, and a deep love for his family, his country and for God. The international community, in the meantime, can help continue Boris' legacy by finally recognizing the name—the Republic of Macedonia. Boris would want this.

I was with Boris last Wednesday, until about 5:30 p.m., about 14 hours before he left us for a better place. We were discussing the future, his plans, upcoming trips and the like. How short life is and how foolish the plans of man indeed! In a blinding instant it all changed, for Macedonia, for the Balkans, for the world, forever. It changed for his family, his friends, his fellow countrymen and for the international community. For people such as myself, and my friend Boris, however, we have a hope of things yet to come. Our faith tells us that one day we will be reunited together along with many others. In the meantime, what life we have left here on earth should be dedicated to spreading his legacy, a legacy of love, forgiveness, reconciliation and friendship. That is what my friend Boris would want.

Mr. LANTOS. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from New York (Mr. ENGEL), a distinguished member of the Committee on International Relations who has a long-standing special interest in this region.

Mr. ENGEL. Madam Speaker, I thank the gentleman from California for yielding me this time, and I rise in strong support of H. Res. 540.

Madam Speaker, being a Member of Congress, we are privileged to meet many international leaders. Particularly serving on the Committee on International Relations, it is our honor to meet visiting dignitaries, and we often go to different countries to meet with them as well. Last week, I had the distinct honor, on Friday, of attending President Boris Trajkovski's funeral in Skopje, Macedonia, as part of the official American delegation, along with my colleague and good friend, the gentleman from Virginia (Mr. WOLF), and also Secretary Principi, who is the Secretary of Veterans Affairs. I know the three of us felt that it was an honor to represent the United States of America at this funeral.

I knew Boris Trajkovski, having met with him on many occasions. It is a tragedy, as my colleagues have pointed out, that a man so young, only 47, with tremendous promise, a very good leader for his country, forward looking, a strong ally of the United States, would be cut down in such a tragic manner.

It is not easy to be a leader in the Balkans. The Balkans has been a very, very volatile area. It takes people with courage to be able to look ahead and to be able to do what is right. Boris Trajkovski was such a person.

I remember a meeting with him in 1999 in Skopje, Macedonia, where he was running for election as president and was courting the votes of the Albanian community in Macedonia. The Albanian community is a very important and large ethnic minority community in Macedonia. And President Trajkovski was looking for the votes and said that he is a Methodist minister; and as a Protestant minister in an Orthodox Christian country, he was a religious minority in his own country. So he said that he would be sensitive to other religious minorities and ethnic minorities in Macedonia. And, indeed, he was.

Madam Speaker, part of the resolution says: "Whereas during Macedonia's armed ethnic clashes, Mr. Trajkovski demonstrated his willingness to work with all of Macedonia's ethnic groups, which helped to prevent a civil war." And even though that was unpopular among some of his own people, he knew it was the right thing to do. He knew that the Albanian ethnic minority was entitled to rights as first-class citizens of Macedonia. And I can tell you, as chairman of the Albanian Issues Caucus here in Washington, I witnessed firsthand the workings of President Trajkovski bringing people together and standing out and speaking out in favor of such an agreement, which worked.

Tensions in Macedonia are at an all-time low, largely because of the work of Boris Trajkovski. Our ambassador, the U.S. ambassador to Macedonia, Ambassador Butler, who does such a wonderful job, told me last week that he met with President Trajkovski regularly. In fact, they prayed together and they often discussed all kinds of issues.

President Trajkovski was unabashedly pro-American. As our colleagues have said, they joined with us in fighting terrorism and joined with us in Afghanistan and Iraq. The Adriatic Charter, Croatia, Macedonia, and Albania, we promoted that in this Congress. My resolution passed both the Senate and the House commending these countries for signing the Adriatic Charter. President Trajkovski was an important part of making that happen.

Yes, he alienated a number of people because he wanted to move forward. Even in his own party there were some times he wondered if he could win reelection because he was so bold in taking these enlightened positions. But, ultimately, I believe that had he lived and stood for reelection, he almost certainly would have been reelected, because people understood that here was a man of vision and a man of greatness and someone who was good for the Macedonian nation.

So I just want to join with my colleagues in paying tribute to President Boris Trajkovski. I met with his wife before the funeral, saw his children; and at the cemetery, I must say it was very, very moving to have thousands of foreign dignitaries there, each rep-

resenting a different country. I had not seen anything so moving since the funeral of Yitzhak Rabin in Israel several years ago.

Boris Trajkovski was a man who will be missed; and it is very, very important that all people of good will follow in his footsteps and make sure that Macedonia continues to have a thriving democracy and continues to work closely with the United States of America. I strongly support this resolution and urge our colleagues to all vote in the affirmative.

Mr. LANTOS. Madam Speaker, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished ranking member for yielding me this time.

In my community, I always discuss with my constituents the value of internationalism, recognizing the world family; and so I want to applaud the sponsors of this legislation because, again, it says to the world that America cares. I believe that this very sad occasion, the loss of life and the untimely death of President Trajkovski, should be noted on the floor of this House.

I had the privilege some years ago, during the Bosnian war, to be in that area and to understand the closeness yet the distance and the importance of someone who could be in fact a uniter, and that he was. To recognize the wrongness of ethnic cleansing and ethnic divisiveness was his trait. As I understand it, even as he traveled to his untimely death, he was engaged in efforts of internationalism and peacemaking.

So I rise today to express my condolences and as well my deepest sympathies to the people of Macedonia, and of course to the region, and to thank the Committee on International Relations for always drawing to our attention that we are much stronger when we extend the hand of friendship and we accept each other's pain as well as each other's joy. My deepest sympathy also to those who mourn his death here in the United States and certainly in Macedonia and around the world.

I conclude by saying that in addition to those from that region, I have a great deal of collaboration with those who call and respect India as their place of birth. So I also want to be able to acknowledge the resolution dealing with the commendation and the celebration of the Republic Day of India, and again to thank Indian Americans for their efforts toward peace and reconciliation. Not only do we speak these words, but I hope that we will act upon the international spirit and making sure that all of our friends know that we continue to stand united for world peace, world dignity, and the humanity of all.

Madam Speaker, I rise today in support of this resolution. The issues of India and Indian-Americans are becoming increasingly promi-

nent here in Washington. The role of India, as a large and vibrant democracy in a strategically important part of the world, is quickly coming into focus—as a partner in trade, and as an ally in fighting international terrorism. Indian Americans have contributed immensely to the American culture and to our economy. It is no wonder that in only ten years, the Congressional Indian Caucus has already amassed over 160 Members.

But India is a huge and complex nation, well-known as the world's largest Democracy. Of course, as strong as our relationship is with this large partner, there are also differences—on trade issues, outsourcing, environmental, and labor issues. We need to work on those differences and come to fair resolutions. It is the true bond of friendship between our two nations, so obvious in our cultural exchanges, that makes me confident that we will resolve the differences between us and build on our common values.

It is a true testament to the power of democracy and the spirit of the Indian people, that only 54 years after it adopted its Constitution, that India is such a powerful and respected player on the world stage.

After my two trips to India, and my years of friendship and partnership with the outstanding members of the Indian community in Houston, I know that I have still only scratched the surface of the deep culture and history that Indians have to offer the world. I am glad that the U.S.-Indian relationship is continuing to flourish.

I commend the co-chairs of the Indian Caucus, Representatives WILSON and CROWLEY, for taking the time to put forth this symbolic resolution.

I support this legislation and urge my colleagues to do the same.

□ 1845

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Macedonia is a deeply divided country ethnically, and President Trajkovski was a powerful force in bringing peace and reconciliation to the Slav and Albanian communities. We shall remember him as a man of peace. I urge all of my colleagues to join us in voting for this resolution.

Madam Speaker, I yield back the balance of my time.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank all of my colleagues for their appropriate words and sentiments. I urge unanimous support for the resolution.

Mr. WOLF. Madam Speaker, I rise today in support of H. Res. 540, expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski and to pay honor to his life.

I was honored to be a part of the United States delegation to President Trajkovski's funeral led by Veterans Affairs Secretary Anthony Principi. The delegation also included Congressman ELIOT ENGEL, Barry Jackson from the White House and President Trajkovski's good friend, Kent Patton.

President Trajkovski was a great friend of the United States and will be dearly missed.

He was a man of great faith and led his country with dignity and respect. He united the citizens of Macedonia and will be remembered by all.

Below are statements read at his funeral by H.E. Mr. Branko Crvenkovski, president of the Government of the Republic of Macedonia, and Mr. Romano Prodi, president of the European Commission. Their words illustrate the great impact that Boris Trajkovski had on so many of the lives he touched.

ADDRESS BY H.E. MR. BRANKO CRVENKOVSKI

Dear President, today, Republic of Macedonia is on its feet, united and unified in its pain, dignified in its sorrow, joined in paying the respect.

We are offering our last farewell to you, our President. Our loss is immense; the tragedy, which has befallen us, is immense.

Only 10 days ago, full of life, full of enthusiasm and deeply convinced of the European future of Macedonia, you sent me to Ireland.

Fate has decided that I bid you farewell today to the unforgettable part of the history of our nation and state.

In the last four years, circumstances and the curse of our profession called politics, bestowed us moments when we were both friends and opponents, moments when we cooperated, moments when we criticized each other.

However, I will never doubt the fact that in all key moments whilst making the most difficult decisions for the future of our state, we were always together, we were on the same side, understanding each other even better than with our fellow party members.

You often sailed against the wind, misunderstood, blamed, without sufficient support.

You were the most deserving for the fact that we avoided a disaster in 2001.

It is tragic for us that your death united us more than your commitments as President.

It is tragic for us and a satisfaction for you that today we are aware that you were more respected worldwide than in your own country.

Today, we know that you looked further, thought deeper and believed more.

Our pain is immense; the pain of your family is immeasurable.

Somebody said: "Shared joy, is greater joy. Shared pain is lesser pain." Today, all of us, entire Macedonia and all our friends worldwide share the pain and sorrow of your Vilma, Sara and Stefan.

Your children had a father. From now on, fatherly care becomes the responsibility of all of us.

Standing your ground, you withstood all criticism. You were blamed that you were a traitor, while you made the most patriotic step. You were blamed of cowardice, but you were the most courageous one. You, more than anybody else, stopped the war and returned the peace to us.

In times of insanity you gave us reason. You fought hatred with your words of love, forgiveness, mutual understanding. And you accomplished all of this in your recognizable style: sincerely, simply, from the bottom of the heart, excluding any calculations.

Once you told me: "In 10 years everybody will recognize that I was right".

Boris, it was not necessary to wait 10 years. Already today the entire Macedonia pays its tribute and recognition.

Distinguished President, having learned of the tragic event, many asked themselves what would befall Macedonia after your death. Such people neither know Macedonia, nor knew you.

Your greatness did not lie in leading your people in a direction different from what they considered their options.

Your greatness is embodied in you being a man of the people and for the people.

Macedonia knows its way. Macedonia knows where its future lies.

Dear President, I am honored for having known you and for having the opportunity to work with you.

There are great people next to whom all others feel small. There are greater people next to whom all others feel great, as well.

You, Boris were the latter kind of man.

Rest in peace, great man.

A TRIBUTE TO BORIS TRAJKOVSKI

(By Romano Prodi)

When I learned the news of the tragic crash that cut short Boris Trajkovski's life, an image flashed to my mind—the memory of our meeting in Thessaloniki at the European Council in June last year.

It was an important day for the Balkans. It was an important day for Europe. It was the day we decided together that the European Union's enlargement would not be complete until all the countries of this region were full members of the Union. It was the day we set a joint agenda together to achieve that objective.

When we met, we embraced and rejoiced at the fact we were seated at the same table. It was a foretaste of what the full European family would look like.

I remember thanking Boris for all the enthusiasm and commitment he had shown in bringing the whole region—not just his own country—along the road to European integration. His reply was a smile and an even warmer embrace.

That is the image of Boris Trajkovski that will always stay with me. His passion, his commitment, his love for Europe and for his region. Europe was the guiding star on Boris's journey. The values of tolerance and respect on which our Union is founded were an inspiration to him in the very difficult times this country and all its people have seen.

Pulling together, not apart. Being open, not closed. Including, not excluding. Like our Europe, a Union of minorities, united by the ideals of cooperation and peace.

Those were my thoughts on my recent visit to Skopje, as together we crossed the old bridge over the Vardar—that symbol of union so full of meaning for this city's—and this country's—past and present. This country, this region, all Europe has lost an enlightened, far-sighted leader, a statesman who saw beyond the narrow horizon of everyday politics, a man who put the individual at the center.

As we pay tribute to the memory of Boris Trajkovski today, we all share the pain and grief felt by his beloved wife Vilma, his children Stefan and Sara, his family and friends, and all his fellow Macedonians.

But as we mourn his loss—and it is a great loss—we must not lose sight of the deeper meaning of his work, the work he sacrificed his life to accomplish.

Honoring Boris Trajkovski's memory means taking up the challenge—meeting the objectives he believed in and completing the work he started.

Honoring Boris's memory today means thinking of the future of the people of Macedonia—these people he cherished so dearly, who were his foremost concern, with whom he felt utterly at one.

For the country's leaders, it means continuing—resolutely, united in purpose—along the path of European integration. Aware that this is an irreversible process, a process that has the whole country behind it. With all its ethnic and political components fully supporting the choices, shouldering the responsibilities and protecting the rights of each.

For the international community, it means continued backing for the efforts this country has already made. We must support Macedonia's bold reform program to become a full member of the European Union.

So we look forward to receiving your application to join the Union. And if that application were dedicated to anyone, it would be to Boris Trajkovski.

We believe in this country, we believe in its will and determination to become a full member of the European institutions. And we are certain it will succeed.

This will demand patience and, above all, perseverance. And it can only be achieved if it is truly desired, as Boris Trajkovski desired it so passionately.

Today we mourn Boris Trajkovski, but we have faith in this country's political future. Any other attitude would fall short of the ideals Boris fought for all his life.

His tragic death is a loss to us all. But his memory gives us heart to work even harder, to keep alive his political heritage and the principles that guided him, and to meet the objectives he set himself.

February 26 will be remembered as a sad day, but also as a day to commemorate Boris Trajkovski's commitment and enthusiasm. So his dream of Macedonia as a full member of a prosperous and peaceful Europe comes true.

Mr. SMITH of Michigan. I join my colleagues in supporting H. Res. 540, which expresses the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski.

As we know, President Trajkovski died in a February 26 plane crash in Bosnia-Herzegovina, where he was planning to participate in a conference before traveling to Ireland to present his country's formal application to join the European Union.

Boris Trajkovski had been serving as President since 1999. He reached across ethnic divides to hold his country together during the ethnic turmoil and conflict which erupted in Macedonia in 2001. He also represented Macedonia well in working with the international community, both on regional issues and on making Macedonia's case for integration into European and Euro-Atlantic institutions.

Macedonia is a country of concern to the Helsinki Commission, which I chair. As they have had to develop democratic institutions over the last 15 years, Macedonia also had to assert independent statehood as Yugoslavia disintegrated and deal with the economic disruption caused by that disintegration. Macedonia had to bear a refugee burden caused by associated conflicts in Bosnia and Kosovo, and be a part of the enforcement of international sanctions against Milosevic's Serbia. Macedonia has had to work out differences with neighboring states on sensitive, national issues which run deep in Balkan history, at the same time to overcome divisions within its own, ethnically diverse population. And, like so many of the countries in southeastern Europe, Macedonia must contend with organized crime and corruption, including trafficking in persons, which threaten its further democratic and economic development.

It is my hope, Madam Speaker, that the same strength and determination upon which the people of Macedonia have relied in the face of these challenges, will serve them again in the face of this latest tragedy. With the passage of this resolution, the United States Congress can show its support for

Macedonia and its people, not only as they mourn the loss of their President, but as they continue on the path of peace and prosperity he was leading them at the very moment he died.

In closing, I wish also to express my prayers and personal condolences to family and many friends of Boris Trajkovski.

Madam Speaker, I join my colleague Mr. SOUDER and others in supporting this Resolution and expressing deep sadness over the sudden and tragic death of Boris Trajkovski, the President of Macedonia.

In the 1990s, I served as a Co-Chairman of the Commission on Security and Cooperation in Europe, the Helsinki Commission. During that time, the Commission, the Congress, the American government and indeed the international community viewed the conflicts associated with Yugoslavia's demise as a foreign policy priority. In Croatia, Bosnia and then Kosovo, thousands upon thousands were killed, raped or tortured while millions were displaced in ethnic cleansing campaigns. The violence, of course, would reverberate through the region, replacing trust and cooperation with fear and hatred in ethnically diverse communities.

Macedonia, as a republic of the former Yugoslavia, was caught in the midst of this turmoil, but it held itself together. Even when fighting erupted within its own borders, many of that country's leaders worked to find solutions to underlying grievances and brought peace back to Macedonia. Of course, international involvement was essential, but so was the presence of people like Boris Trajkovski, who would reach across ethnic lines and work to help all the citizens of Macedonia, not just those of their own ethnicity.

Boris Trajkovski, in my view, understood what it meant to be a head of state, to represent the country, all of its people, and all of their aspirations. Since 1999, he moved his country forward.

I hope, Madam Speaker, that the people of Macedonia will find not just sorrow in President Trajkovski's death but also the strength to make his vision of a democratic, tolerant and prosperous Macedonia a reality.

They can count on support of the United States to that end. As Secretary of State Colin Powell said on February 26, the day Trajkovski's plane crashed in Bosnia, the Macedonian President "leaves behind a legacy of U.S.-Macedonian friendship that has never been closer or stronger."

In closing, let me also express my deepest condolences to President Trajkovski's wife, Vilma, his children Sara and Stefan, and other family members and friends.

Poverty is a fact of life for as many as 400 million Indians who survive on less than \$1 a day. Illiteracy rates, while decreasing, are still high. And the health, economic and security challenges posed by the HIV/AIDS virus may be the most important issue facing India today.

Madam Speaker, as our delegation conveyed during our recent visit, and I was want to convey today, the United States is India's partner as she works to address these and other challenges on the way to realizing her potential of becoming a true world power.

I returned home with a renewed commitment to ensure that the United States continues to provide economic development assistance for health care and food for the

needy, improved energy efficiency and environmental restoration efforts. And we will of course honor our pledge to take the lead in the global effort to combat the scourge of HIV/AIDS, through the provision of medicine, volunteers, and much-needed financial resources.

Above all, we must foster a deeper appreciation for the shared values and beliefs that lie at the heart of our two great democracies, and an understanding of the common principles and interests that bind us together.

This Resolution is a celebration of India's Republic Day, but also a recognition of our strengthening relationship.

I urge all of my colleagues to support it.

Mr. BEREUTER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, H. Res. 540, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3717, BROADCAST DECENCY ENFORCEMENT ACT OF 2004

Mrs. MYRICK (during consideration of H. Res. 540), from the Committee on Rules, submitted a privileged report (Rept. No. 108-436) on the resolution (H. Res. 554) providing for consideration of the bill (H.R. 3717) to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language, which was referred to the House Calendar and ordered to be printed.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 46 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1943

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GERLACH) at 7 o'clock and 43 minutes p.m.

#### PROVIDING FOR ADDITIONAL TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3915) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 21, 2004, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3915

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

The authorization for any program, authority, or provision, including any pilot program, that was extended through March 15, 2004, by section 1(a) of Public Law 108-172 is further extended through April 2, 2004, under the same terms and conditions.

#### SEC. 2. EXTENSION OF CERTAIN FEE AUTHORIZATIONS.

Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) is amended by striking "October 1, 2003" and inserting "May 21, 2004".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentleman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a short and simple bill. H.R. 3915 authorizes a general extension of all programs under the Small Business Act and the Small Business Investment Act from its current ending date of March 15, 2004, until April 2 of 2004. This will allow SBA programs that expire on Monday to continue to operate.

In particular, these include the surety bond program which enables small businesses to obtain surety bonds in order to bid on government contracts, cosponsorship authority so that the SBA can host events or print publications with the private sector, and procurement of assistance that is provided to certain small businesses.

H.R. 3915 as amended also authorizes the SBA to charge fees for the 504 loan program with a certified development company until May 21 of 2004.

□ 1945

This program operates solely based on the fees charged by the SBA to certified development companies. If such fees are not extended, there will be no way for certified development companies to make the type of long-term loans that small businesses rely on to create new jobs. The 504 program operates totally upon user fees and has not received an appropriation since 1996.

Unless H.R. 3915 is signed by the President soon, the 504 program will shut down on Monday.

The ranking minority member and I have been working together on finding a solution to the 7(a) problem. Due to a variety of reasons, unfortunately, that solution is not part of this legislation. I pledge to the gentlewoman from New York (Ms. VELÁZQUEZ) that I will do everything in my power to see to a resolution in the 7(a) problem as soon as possible.

I urge my colleagues to support H.R. 3915.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great reluctance that I agree to the second short extension of the Small Business Administration. We are here today because this body has not been able to get our job done. All we ever hear from this administration and the majority party is how important small businesses are, but when we have a chance to do something as simple as ensuring small business of the capital they need to survive, no one from the other sides of the aisle is willing to step up to the plate.

The administration's lack of commitment in supporting reauthorizing the Small Business Administration clearly demonstrates a disconnect between what they say and what they are willing to do. The administration has no problem depriving thousands of small businesses of the only affordable lending opportunities open to them. They are unconcerned that their decision to cut the 7(a) program jeopardizes over one-third of all 7(a) loans.

This administration could not care less that thousands of small businesses that were guaranteed loans by Small Business Administration had their loans stripped out from under them and may now face bankruptcy. It does not seem to bother them one bit that they are driving lenders out of the 7(a) program, leaving even more small companies with no resources to build their businesses. You would think that job creation might get President Bush's attention, but his administration is denying small businesses access to \$3 billion in loans this year alone, which will result in 90,000 lost jobs.

The administration and the Republican leadership may be perfectly comfortable slamming the door shut on small businesses struggling to compete in the weak economy, but I am not. The 7(a) program has been on life support since January. The Small Business Administration flagship lending program was first shut down in early 2004 due to lack of funds. Small business owners, some who have put down their life savings, some who had plans to expand and hire new employees, some who were going to purchase new equipment found themselves left in the lurch. Even though they had played by

the rules, submitted their applications on time and were approved for a loan, the Federal Government failed to honor its commitment to them.

Both fairness and accountability flew out the window when the program was shut down and applications were returned to small business borrowers.

Still today these small businesses are waiting for some relief. When it was reopened, the program saw new restrictions that are still in place. In its current state, the 7(a) program fails to serve the very small businesses Congress had in mind when it created this program in the first place. They are causality of this administration's lack of commitment to small businesses. And that is just plain wrong. We must address this crisis immediately.

Our small businesses do not ask for much. Yet, they give so much in return. They create jobs in our local community. They pave the way for individuals to reach the American dream. They train our workers and generate new ideas. We should be given back giving back to them what they have given to us. And what does this bill give them? It gives them nothing. Now more than ever, our Nation needs small companies to succeed. They are the driving force of job creation in our economy. America's hard-working small businesses should be able to count on Congress to improve the Small Business Administration and its critical programs. Unfortunately, we are failing.

Mr. Speaker, I would like to yield to the chairman of the committee for the purpose of entering into a colloquy.

Would the chairman be willing to assure me that he will work to make changes to the 7(a) lending program by April 2, 2004?

Mr. MANZULLO. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Illinois.

Mr. MANZULLO. I thank the ranking member. I will be willing to enter into a colloquy.

I will assure the ranking member that I will work with her to make changes to the 7(a) lending program by April 2, 2004 that will resolve the problems currently affecting the 7(a) program through the end of fiscal year 2004. I make the sincerest assurance that these negotiations will involve all relevant parties, including House leadership and the White House and that the gentlewoman and her staff will be involved in such negotiations. I truly believe that we can solve this problem together.

Ms. VELÁZQUEZ. I thank the chairman. I appreciate his willing to willingness to work this issue out in a timely manner. However, given past experiences with the gentleman and our so-called agreements, I am sure you can understand my need to make this agreement abundantly clear with the gentleman.

Mr. Speaker, small businesses continue to suffer under the current 7(a)

program restrictions, and we cannot continue to ignore this issue. It is the most pressing issue that the gentleman have jurisdiction over. I thank the Chairman.

Mr. MANZULLO. I would like to thank the ranking member from New York for entering into this colloquy and resolving this issue amicably.

Ms. VELÁZQUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. MANZULLO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GERLACH). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 3915, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through April 2, 2004, and for other purposes."

A motion to reconsider was laid on the table.

#### APPOINTMENT AS MEMBER TO NATIONAL PRISON RAPE REDUCTION COMMISSION

The SPEAKER pro tempore. Pursuant to section 7(b)(1) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606), and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following member on the part of the House to the National Prison Rape Reduction Commission:

Mr. Pat Nolan, Leesburg, Virginia

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. UDALL) is recognized for 5 minutes.

(Mr. UDALL of New Mexico addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CAMP) is recognized for 5 minutes.

(Mr. CAMP addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BOYD) is recognized for 5 minutes.

(Mr. BOYD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### HEALTH SAVINGS ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, I rise this evening to discuss the inclusion of health savings account in the Medicare legislation. It is one of the most exciting provisions to business owners in my district.

Health savings accounts are going to change the way that our country looks at health care. It is going to change the way that our companies buy health care. Basically a health savings account is simply an IRA. It is a medical IRA. It is a medical IRA where we are allowed to put money in tax free at any age up to \$5,500 a year. An employer or the plea can make the contribution.

The nice thing about the health savings account is that it can be taken out at any age if it is used for medical purposes. So unlike other IRAs which have to be deducted or taken out of the savings accounts after you are 62½, health savings accounts can be taken out now at any age. It can be used to pay for premiums, deductibles, co-pays, prescription drugs, medical supplies or any medical treatments.

The value of this is, Mr. Speaker, that we are going to get to about 30 percent more buying power with our dollar because we make tax free contributions into the plan and we can take tax free contributions out if we pay for legitimate medical expenses.

The nice thing also is that it becomes a part of your estate. It travels with you. It is a thing that will go to the next generation if you do not use it. And so it is a way for you to prepare for your medical expenses, but if you do not use the account, then it becomes a way for your children to pay for their medical expenses.

I think that the example of my company is a very good one, Mr. Speaker. We used to have a company with 50 employees. Almost every year we gave bonuses to employees. I would tell you that if we still owned the business, that we would begin to pay those bonuses sometimes 2, 3, 4, and \$5,000 a year into the health savings account. That way we could begin to have the employees use tax free money to pay for their premiums in the program, and if they used the medical services to pay for their deductible, so with tax free money.

Now, if I am paying \$5,000 a year into an account for every employee, 2 or 3 years down the road, each employee would probably have 10 to \$15,000 in their medical savings account, their health savings accounts. At that point, I would begin to shop for \$5,000 deductible rather than \$500 deductible. The resulting collapse in premiums is something that I will guarantee will be

attractive to every single small business owner in America and most large businesses. Each employee is going to want to look at this as a way to begin to prepare for their medical future.

The important aspect of the health savings account is that after we establish these large accounts to be used for medical purposes for our employees, and they know it is a part of their estate, they will begin to look at their medical decisions with regard to the amount of money that is coming out of their health savings account. It is one of the things that we think will depress the demands, the arbitrary demand that sometimes goes along with medical decisions today.

We think that the health savings accounts is one of the most important pieces of legislation passed during the past year. When employers in my district hear about it, they call our office and begin to ask can they buy that now.

□ 2000

Most insurance companies will begin to have plans this year. Most are saying to me that they will have the plans up and running by the mid-year June of 2004. I think that in the future years, as employers and employees alike begin to combine their efforts into the health savings account, we are going to find real changes in the way that medical care is paid for in this country, and that is the beginning point of most of the reforms that are going to make medical insurance available and affordable to all Americans.

Mr. Speaker, I salute this House in passing the prescription drug bill with the Medicare reforms that included the Health Savings Account.

#### RURAL HEALTH CARE FOR VETERANS

The SPEAKER pro tempore (Mr. GERLACH). Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, I am proud tonight to stand and take these 5 minutes in support of the Rural Veterans Access to Care Act of 2003 introduced by my good friend the gentleman from Nebraska (Mr. OSBORNE). I am just happy to say I am glad to be in his line-up tonight.

Mr. Speaker, I rise today to speak about an issue that is very important to me, the health care of rural veterans and the challenges that these patriotic Americans who have so proudly served our Nation in times of war today face. I am proud to address their concerns about access to health care and the unique obstacles they face for medical treatment.

Why is this so important? The answer is very simple. We owe these brave men and women who fought for our freedom and defended our liberty, including those who are doing so tonight as I speak. Today's soldiers are tomorrow's

veterans, and we have those in Iraq and Afghanistan doing once again their duty in order that we might remain this free and proud Nation.

Mr. Speaker, I come from a very rural district. To say that my district is rural is an understatement. The 17th District of Texas is 33,836 square miles, in fact larger, than six States.

This talk about the size of my district can also give my colleagues an idea of how far it is to drive for a veteran to receive health care, in fact how far it is to get anywhere. In the 17th District, there is no subway to take a person from one end to another. A taxi ride would take a few hours and be outrageously expensive, and bus lines do not run from the bedroom community of Ft. Worth to the outskirts of Lubbock.

So what does all of this size and magnitude have to do with rural veterans? Well, it has a lot to do with them. If anyone here has been to my district, they know how long it takes to get from point A to point B, but to veterans in need of health care in West Texas, a 2-hour drive is not just a jaunt down the road or a time to think and reflect. For these folks, a long drive is a very big challenge.

I am proud to stand by the veterans of my district, and again I say, stand as a cosponsor of the Rural Veterans Access to Care Act of 2003.

The gentleman from Nebraska's (Mr. OSBORNE) bill goes a long way to helping to alleviate some of the difficulties faced by rural veterans. I am glad he is stepping onto the field to fight for rural veterans, and I am proud to be standing with him.

I endorse his idea that no less than 5 percent of appropriations to VA health care should be used to improve access to medical services for highly rural or geographically remote veterans.

Last year, I was deeply disappointed by the leadership's implicit acceptance of using veterans' resources for political expediency. The VA appropriations bill for fiscal year 2004 broke a promise made to our veterans. The measure contained \$1.8 billion less in veterans' health care than was promised last year by the Republican leadership in the budget resolution. We all know that the leadership's first priority during the budget negotiations last year was achieving large tax cuts.

Along with several of my colleagues, we warned that the commitments made for increasing funding for veterans' health care, along with large tax cuts, could not be kept. For this reason, I supported a smaller tax cut that would allow the promise to be honored. We were later informed that the commitment would be honored, but when it came time to act, the leadership found they could not keep this promise, along with the large tax cut after all, but that was last year.

I am hopeful that 2004 will bring greater sense to those in power. I pray that 2004 will bring greater loyalty to those who were told that they will be remembered.

I think it is important to remember that today's fighting men and women are tomorrow's veterans.

A recent issue that highlights the challenges facing rural veterans is the CARES Commission's recommendation recently that the West Texas VA health system, the VA hospital in Big Spring, Texas, should be closed.

I represented Big Spring up until the redistricting in 2001 removed it from my district, but now my interest in this issue is just as strong today as it was when I represented Big Spring. Most of the population that uses the Big Spring VA center is to the east, specifically in the population areas around Abilene and San Angelo where two Air Force bases fuel the veteran and retiree residents.

Given this fact, it only takes plain common sense to see that the Big Spring VA is well-positioned to keep the promise made to our veterans and military retirees for health care.

I have had some folks ask me why we are in such the forefront of this challenge. My answer to them was three-fold: So many of the veterans in my district are treated in the Big Spring VA hospital; all the veterans and military retirees of this country deserve the best health care and benefits we can give them; and that we are in very much dedicated to seeing that just that happens.

I was pleased to participate in a meeting with VA Secretary Anthony Principi that was called by Senator KAY BAILEY HUTCHISON. The meeting was very productive and allowed me to assert my belief that the Big Spring VA needs to be both kept opened and strengthened for rural veterans of West Texas.

I understand the need for our government agencies to periodically review missions, goals and facilities, but such reviews need to be deeper than number crunching.

Mr. Speaker, I am proud to stand in support of the bill. I believe it goes a long way to getting more people to recognize the importance of health care for rural veterans, as well as all veterans.

#### INTRODUCTION OF RURAL VETERANS ACCESS TO CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, I would like to thank the gentleman from Texas for his kind words and his support. The gentleman from Texas (Mr. STENHOLM) and I share very similar Districts, very large districts.

My district has 68 counties, 160,000 square miles. It is the third or fourth largest district in the United States. As a result, veterans who need health care must often travel several hours, sometimes hundreds of miles, to access VA health care. Sometimes this is as much as a 3-day trip, a day down, a day

at the facility and a day back, and the problem is that usually transportation is very difficult to access. A person has to have a son or a daughter or a friend or somebody who can take off work for 2 days or 3 days to provide that transportation. So it is a tremendous hardship on a number of people.

Often, all a veteran needs is to adjust medication, have a blood pressure test, receive an EKG or take a blood analysis. So these are very simple, routine matters that still take tremendous resources to have attended to. Routine medical care could be handled at the local hospital or clinic where that person resides or near where that individual resides, and this would require minimal travel time, minimal waiting time for an appointment because sometimes these appointments, you have a waiting time of 3, 4, 5, 6 months and also minimal expense.

So I looked at various options to address this problem and developed H.R. 2379, the Rural Veterans Access to Care Act. H.R. 2379 would encourage the VA to use its authority to contract for routine medical care with local providers for geographically remote veterans who are enrolled in the VA. They must be enrolled in the VA previously in order to access the provisions of this bill.

So how will it be funded? The VISN director will use the funding for acute or chronic symptom management, non-therapeutic medical services and other medical services as determined appropriate by the director of the VISN after consultation with the VA physician responsible for primary care for the veteran.

H.R. 2379 sets aside 5 percent of the appropriated VA medical care allocation in each VISN to be used for routine medical care for geographically remote veterans. We are talking about taking just 5 percent of the funding and setting it aside for veterans who live at some significant distance from a VA facility.

H.R. 2379 uses 60 minutes travel time or more as an initial determinant, but there is also an exception to the legislation if the VA finds it is a hardship for a veteran to travel to a VA facility, regardless of how long it will take. It is conceivable that somebody might live only 30 or 40 minutes away but because of age or severity of illness or whatever it may be much more convenient to attend a closer facility that would enhance that person's health.

I want to assure veterans, this legislation is not a voucher program. My legislation allows only enrolled veterans who have been approved by the VA to seek routine care from a local provider.

Reducing demands for routine care could also help with appointment backlogs in VA facilities, which are significant at this time.

According to the CARES Commission report, the benefits of contracting are, it can add capacity and improve access faster than can be accomplished

through capital investment. In other words, building new facilities is not nearly as efficient as letting them use preexisting local clinics or hospitals. It provides flexibility to add and discontinue services as needed and allows VA to provide services in areas where the small workload may not support a VA infrastructure, which is very much the case in my district and in the gentleman from Texas' (Mr. STENHOLM), and this was for highly rural veterans.

During the hearings, the CARES Commission received testimony stating that contracted care improves access and that there was little dissatisfaction with contracted care. Therefore, I urge my colleagues to support H.R. 2379 and help our rural veterans as they access VA health care.

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 5 minutes.

(Mr. MCINNIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### IN SUPPORT OF RURAL VETERANS ACCESS TO HEALTH CARE ACT OF 2003

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. CASE) is recognized for 5 minutes.

Mr. CASE. Mr. Speaker, good evening and aloha.

I am very happy to stand on the floor of the House today and join my colleagues the gentleman from Nebraska (Mr. OSBORNE), the gentleman from Texas (Mr. STENHOLM) and many others in introducing the Rural Veterans Access to Health Care Act of 2003.

We are all very well aware of the commitment that we have made, at least in principle, although the practice has been lacking of recent years, but the principle that we will take care of veterans when they come home. The truth, however, is that as we try to honor that principle and the practice, the equality of access to health care throughout our country is inconsistent, and this is most particularly true in the rural areas of our country. In these areas, our veterans simply do not have the same level of access to the veterans' health care as they do in the urban areas.

This is true in Hawaii's 2nd District, which is a rural area of our country, just as others are, but we have a little wrinkle in the 2nd Congressional District that creates a unique complication. The wrinkle is that my district is not contiguous. It is made up of islands. It is not possible for the veterans of my district to hop on the nearest road and get to the nearest clinic. It is not possible for the most part for my veterans to hop on the nearest ferry to get to the nearest clinic. Their access is by air.

There are some VA medical clinics on many of the islands that I represent. Of the seven inhabited islands, four have VA clinics; three do not. The islands of Molokai, Lanai and Niihau do not, and these are the particular problems that this bill seeks to address.

But it is not limited only to those islands. For the islands that do have VA clinics do not have the large specialized hospitals. There is only one of them on the island of Oahu. So for six out of the seven islands, the veterans that live on those islands have a particular difficulty in getting to treatment when they need it, and with airfares rising rapidly, with a round trip now well over \$200 in some cases, we can see that the problem is quite evident.

Let me give my colleagues just a real life example, one proud veteran who I have gotten to know over the last couple of years, a gentleman by the name of Patrick Esclito, of the island of Lanai. Pat asked for my office's help last year. He had rheumatoid arthritis and had also suffered a massive heart attack in 2002. His condition required him to drive from Lanai, one of the smallest, most isolated areas, to Oahu where he was able to be cared for. Every time he went there he had to pay almost \$300 in airfare and his wife as well because they did not want him to travel alone.

As my colleagues can understand, he needed assistance in getting the basic health care that was promised to him by our country, and we were successful, in part, by accommodating the possibility that he would be treated instead on the island of Maui, which still requires a boat ride at least, not quite as expensive, but he still has to get there, and I doubt that Pat's case is unique. It is certainly not unique in the remainder of the 2nd District of Hawaii.

I surveyed all of the veterans in my district currently retaining or receiving benefits in the last couple of months and asked them what is on your mind the most. Every single one of them said health care, access to health care. That is what it is all about, and I am sure that this is the case in most of the rural and more isolated areas of our country.

We are going to have a great debate this Congress, as we did last Congress, over the overall adequacy of our treatment of our veterans, over the overall adequacy, both this year and in the next 5 years at least, in terms of the budget, in terms of the projections on many aspects of veterans' care, primarily health care.

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And that debate is a debate that we should have. Because, again, it is one thing to express a principle and it is another thing to practice that principle. But as we go through this debate, I am happy to say that on the floor of the House tonight at least we have bipartisan agreement that one area that we have to focus on, and that we are fo-

cusing on in this bill, is our rural veterans, recognizing the unique problems that they have in access to basic health care.

Mr. Speaker, I rise today to join 52 of my colleagues in support of this vital bill, a bill that will help keep our Nation's promise to its veterans who live in our more isolated, rural areas.

We are all well aware of the commitment we all, as a great country, have made to our veterans. However, the truth is that our ability to deliver on this commitment varies throughout the United States. Most particularly, in rural areas of the country, our veterans simply do not have reasonable access to veterans' clinics.

The veterans of Hawaii's Second District have this very challenge, but with a unique complication. This is because my district is not contiguous, but composed of seven inhabited islands in the middle of the Pacific Ocean.

There are VA medical facilities on only four of those islands, and it is not possible for those veterans who live on the remaining islands of Molokai, Lanai, or Niihau to drive to a clinic. The same is true of those living on the remaining islands with clinics; they must travel to Honolulu for more advanced treatment.

Currently, the VA will reimburse all veterans for travel to service-related injuries, but it will not reimburse travel for those veterans with less than 30 percent disability rating for non-service-related injuries. This would be the case, for example, of a veteran who has a bad back, a service-related injury, who then has to have dental work.

Let me give you a real-life example of one proud veteran, Patrick Esclito, who lives on the Island of Lanai. Pat requested my help last year; he was afflicted with rheumatoid arthritis and had also suffered a massive heart attack in 2002. His condition required him to travel to the Island of Oahu for treatment at a cost close to \$300 per roundtrip. His wife traveled with him—another almost \$300—because they were both concerned with his traveling alone. My office assisted him in receiving approval for treatment instead on the Island of Maui. However, he still must pay for travel by boat from Lanai to Maui because his ailments are not service-related.

Pat's case is not unique. There are 120,000 veterans living in the State of Hawaii, and many live in areas with no easy or even adequate access to the VA health clinics to which they are entitled. Throughout my Second District, with the cost of air travel skyrocketing, it costs \$200 or more for a round trip plane ticket between Hawaii's islands.

This is why, when, last year, I surveyed all veterans in my district who are currently receiving VA benefits, and asked them what was and was not working, their number one issue by far was access to health care. I am sure that this is the case in most rural areas of our country.

This bill will allow all veterans to receive adequate access to health care, regardless of where they live in this great country. Nonetheless, the President's 2005 Veterans' Affairs budget provides \$29.8 billion for appropriated veterans programs, \$257 million below the amount that the Congressional Budget Office estimates is needed to maintain purchasing power at the 2004 level. The picture is even worse after 2005. Taking into account inflation,

but not caseload increases, the administration's figures reveal that over the next 5 years, the budget for appropriated programs for veterans is \$13.5 billion below the amount needed to maintain programs and services at the 2004 level. Even the Secretary of Veterans' Affairs has admitted that the funding levels for 2006 through 2009 in the President's budget may not be realistic. I have no doubt that it will be the rural veterans who will be affected the most.

Contrary to what some critics claim, H.R. 2379 will not harm the Veterans' Affairs (VA) healthcare system. Instead, this bill will enhance access to healthcare for veterans who have earned it, but are having to pay to travel to that care. Furthermore, by contracting locally for health care for enrolled veterans, the rural communities that provide these services will benefit economically. H.R. 2379 is a necessary bill to truly fulfill this country's obligation to all veterans.

Mr. Speaker, as the President has repeatedly declared: "We are currently a country at war." Hundreds upon thousands of this Nation's finest men and women are abroad in support of the Global War on Terrorism. Some 4,500 soldiers from the 25th Light Infantry Division from Schofield Barracks in Hawaii have deployed to Iraq; another 5,400 soldiers from the 25th will soon be deployed to Afghanistan. Reservists and Guard members from my State, many from my Second District, are also serving on Active Duty.

What kind of message does our country's failure to provide access to healthcare for rural veterans send to the thousands of American men and women in uniform currently risking their lives overseas? Our veterans and our future veterans serving overseas deserve better. If we value all our veterans, we need to give them the respect they deserve by properly funding full and adequate access to healthcare for each and every one.

#### RURAL VETERANS HEALTH CARE

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises today to join the distinguished gentleman from Nebraska (Mr. OSBORNE) in his Special Order to highlight the health care challenges that rural veterans face when attempting to access care through the Department of Veterans Affairs.

For many years, this Member has been far from satisfied with various actions of the U.S. Department of Veterans Affairs, such as, one, the use of the health care allocation formula instituted by the Clinton administration and continuing to this day, which in effect penalizes veterans in sparsely settled States like Nebraska; number two, the reorganization of the Nebraska-Iowa region into a larger region headquartered in the Twin Cities of Minnesota; three, the end of inpatient hospitalization in the Lincoln and Grand Island, VA hospitals; and, four, the current procedural difficulties for veterans to have prescriptions filled.

In total, these faulty decisions have amounted to discrimination against

veterans in rural areas. First, due to the closure and consolidation of veterans health care facilities in Nebraska, veterans in rural areas frequently travel several hours simply to receive the basic services for which they are entitled and are eligible. As a result of this travel, they must incur transportation costs such as overnight accommodations which other veterans are not expected to incur for the same services. Furthermore, requiring elderly and frequently sick or incapacitated veterans to travel on Interstate 80 or other very busy roads and highways is not only unfair to them, but also places them and other citizens at risk.

The severity of this problem was brought to this Member's attention by a January 2002 Lincoln Journal Star article featuring one Nebraska veteran who served in the Navy during World War II. Three years after he was diagnosed with several diseases, his wife of 49 years could no longer care for her husband. She said that putting her husband in a nursing home was the hardest thing she had ever had to do in her entire life. Medicare and a private insurance supplement cover doctors' expenses, and the couple uses their retirement savings to pay for the \$4,000 monthly nursing home cost.

However, additional expenses include \$1,000 a month to cover the cost of seven prescription drugs that this veteran must take to stay alive. Although he qualifies for a prescription drug benefit through the VA, in order to obtain this benefit, the drugs must be prescribed by a VA doctor at VA-approved facilities. As a result, this veteran must travel 50 miles every 6 months in order to have prescriptions reauthorized.

Now, because that veteran is 74 years old, confined to a wheelchair, suffers serious blood clots which prohibit him from traveling, this 50-mile trip often proves to be impossible.

With the struggles of this veteran and many others in mind, this Member expresses his strongest support for H.R. 2379, the Rural Veterans Access to Health Care Act for 2003. Indeed, this Member is a proud cosponsor of this measure, which was introduced by my colleague, the distinguished gentleman from Nebraska (Mr. OSBORNE). He is to be commended for crafting this legislation, which addresses a critical problem about which our constituents in Nebraska are increasingly expressing their concerns.

Through H.R. 2379, no less than 5 percent of the total appropriated funds for health care would be dedicated to address veterans health care access problems in highly rural or geographically remote areas. As amended by this bill, highly rural or geographically remote would apply to areas in which the veterans have to drive at least 60 minutes or more to a VA health care facility. Each Veterans Integrated Service Network, that is called VISN, director would receive an equal level of funding from this account and then have the

discretion to address rural access issues as best fit each VISN. If a VISN would be unable to use all of these funds from this account, the VISN would not be allowed to retain unused funds. Instead, the Secretary of Veterans Affairs would then have the opportunity to reallocate those funds to other VISNs closely nearby or anywhere that is rural and geographically remote.

All Members of Congress should agree that the VA must provide adequate services and facilities for veterans all across the country regardless of where they live, in sparsely settled areas with resultant low-usage numbers for VA hospitals. There must be at least a basic level of acceptable national infrastructure of facilities, medical personnel and services for meeting the very real medical needs faced by our veterans wherever they live. There must be a threshold funding level for VA medical services in each State and region before any per capital funding level is applied.

Furthermore, I support H.R. 3777, the Healthy Vets Act of 2004. This Member is also a cosponsor of this legislation, introduced by our colleague, the distinguished gentleman from Colorado (Mr. MCINNIS).

This measure would allow those veterans in rural areas which are geographically inaccessible to the nearest VA medical facility to enter into contracts with community health care providers on a fee basis to receive primary health care in their own communities. This authority would allow rural veterans to receive preventive regular medical attention without being forced to travel what is too often a prohibitive distance to seek such care.

In spite of the fact that each Congress sets a new record on the amount of appropriation for veterans health care, there have been cutbacks in the access veterans in rural areas have to adequate health care, while there have been advances in other geographic areas. The health care needs of our military veterans must be met to the fullest extent possible. Veterans served in our armed services to protect our freedom and our way of life. As they served our Nation at a time of need, the Federal Government must remember them in their time of need. The debt of gratitude the people the U.S. owe to our veterans surely means we should assist the veterans wherever that need exists.

Finally, Mr. Speaker, this Member remains committed, I would say, to ensuring that Nebraska veterans receive the benefits they deserve, benefits they had expected and which the American people said they want to deliver. I urge support of H.R. 2379 and H.R. 3777.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

(Mr. PETERSON of Pennsylvania addressed the House. His remarks will ap-

pear hereafter in the Extensions of Remarks.)

## JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the President flew Air Force 1 to Cleveland today to campaign in my home State of Ohio, talking with 700 or 800 female small business owners. While the President came and talked about small business and job creation and all that he wants to do in a State which has suffered the worst or second worse job loss in the country, the President, at the same time, and this Congress today, this House today considered this legislation, is slashing \$94 million from a loan program essential to small business development. He has shrunk the size of the Small Business Administration.

This President basically treats small business one way, with very little assistance, and large businesses, like the Halliburton Corporation, which still pays Vice President CHENEY \$3,000 a month from their payroll, the Halliburton Corporation, very differently.

The President really does not get it when he comes to a State like Ohio, a State where we have lost 166,000 manufacturing jobs since he took office, 300,000 jobs overall since he took office; one out of six manufacturing jobs in the State of Ohio has simply disappeared in the last 3 years. The President's solution to all of this is continued tax cuts for the most privileged people, with the hope that some of that money will trickle down and create jobs.

The other solution the President has is more trade agreements, NAFTA-like trade agreements, that ship jobs overseas; that hemorrhage jobs to Mexico, to China, and all over the world. He continues, as he campaigned in Cleveland today to those small business owners, he continued to say more tax cuts for the most privileged and more trade agreements. And, clearly, for 3 years that has not worked. One-sixth of our manufacturing base is gone in Ohio and about one seventh of the manufacturing base around the country.

That was really brought home to me last week. I was in Akron, Ohio, speaking to a group of owners of machine shops, about 60 people. And a gentleman came forward and he dropped a stack of brochures, leaflets like this. He dropped about four times this many, and he said this is what I get in about a month in the mail from companies around the country. And these stacks of brochures, these stacks of leaflets are auction notices for companies going out of business. Every one of these represents a company that is going out of business or is downsizing as a result of the Bush recession.

Here is one plant. Closed, everything sells. Here is another one from Mansfield, Ohio. Two complete stamping

and machine tool shops. They are closing and selling. From North Carolina, public auction. Plant closing. Everything must sell. From Marion, Ohio, complete shop close-out auction. From Cuyahoga Falls, Ohio, in my district, absolute auction. Everything is going. From Scottsboro, Alabama, precision job shop downsizing. Another one here for a CNC machining tool room and production machinery. Excess equipment due to corporate outsourcing.

Excess equipment due to corporate outsourcing. President Bush's top economic adviser the other day said outsourcing is a good thing when these plants move overseas and they ship jobs overseas, because it makes our businesses more efficient. Tell that to the 50 or 60 workers that worked at this plant when the owners of this plant say excess equipment, we are selling due to corporate outsourcing.

From Massachusetts, a large-capacity fabricating and machine shop closing. Another one from Chicago. Six CNC lathes, 12 chucks, 22 bar machines sold. Surplus to the continuing operations. They have lost businesses and they are selling most of their equipment. Here is another one. Three days, two tremendous public auctions. Machinery, equipment, and real estate. Plant's closed, everything must go. Real estate for sale. Here is another one that says Dominion Castings Foundry, equipment machine facility. Plant closed, everything sells. Another one from Baltimore, Maryland. Complete facility selling. Another, 5-day public auction. Plant closing due to relocation. Another one, on and on and on. This company is closing for the same reasons.

Now, Mr. Speaker, it is bad enough that these places are closing and the President's response is more tax cuts. That is not working. More trade agreements hemorrhaging jobs overseas. That is not working. That is bad enough, but there are 800,000 Americans whose unemployment compensation has expired in the last 3 months. That is 800,000 workers, 800,000 families living in communities around this country; and the President and this Congress, the Republican leadership in this Congress, will not extend their unemployment compensation. That is morally wrong. It is bad for our country, it is bad for our communities, it is bad for our families, and it is bad for our workers.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. OTTER) is recognized for 5 minutes.

(Mr. OTTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### RURAL VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, I rise tonight in support of rural veterans and in support of H.R. 2379, the Rural Veterans Access to Care Act of 2003. I would like to thank the gentleman from Nebraska (Mr. OSBORNE) for his leadership on this issue.

No veteran should ever have reason to doubt America's gratitude for his or her service to the Nation and to the cause of freedom. America's veterans deserve nothing less than our highest gratitude, our deepest respect, and our strongest support. Veterans from rural areas, like my district, deserve nothing less than their comrades living in more populated areas.

Michigan's First Congressional District has the highest population in any congressional district in Michigan. There are 65,000 veterans in my district, one-fifth of all the veterans in the State of Michigan.

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They live over a huge area. The Upper Peninsula alone spans 450 miles from east to west. While the VA provides wonderful care in northern Michigan, it is far too hard for veterans to access health care. Recently, a Vietnam veteran from the Upper Peninsula had to go to Milwaukee, Wisconsin, for the treatment that he needed. Milwaukee is a long way from home, so our veterans go as far as the Iron Mountain VA Medical Center, and they spend the night there. The next day they are put on a bus and they are shipped down to Milwaukee, Wisconsin. And that is repeated once their treatment is done, whether it is 1, 2 or 3 days. They are put back on a bus, they go back to Iron Mountain, Michigan, and then they spend the night and go on home.

It is outrageous that they have to travel so many miles, in some case 450 miles, just to get treatment. At best the distance is an inconvenience. At worst, it puts veterans' lives at serious risk. I had another case where a retired Navy veteran from Sault Ste. Marie had surgery at the VA Medical Center in Milwaukee to treat his cancer. After surgery, he was transported via van all of the way back to Sault Ste. Marie, 379 miles away. The next morning, his spouse had to take him to the emergency room in Sault Ste. Marie, Michigan, and the emergency room could not help him. The nearest VA medical center in Iron Mountain could not help him either, so he had once again to be shipped by ambulance 379 miles down to Milwaukee, Wisconsin.

Mr. Speaker, we cannot have veterans being shipped back and forth across state lines. It is dangerous, and it is just not right. These two constituents represent the challenges faced every day by rural veterans across this country. Congress needs to act to address the specific needs of rural veterans. That is why I am a cosponsor of H.R. 2379, the Rural Veterans Access to Care Act of 2003. The legislation would allow veterans to enroll in an option to

seek routine health care closer to home.

H.R. 2379 sets aside 5 percent of each VA region's medical care allocation to be used for routine medical care for highly rural or geographically remote veterans. The legislation would allow rural veterans to be closer to their health care providers, rather than traveling hundreds of miles for an appointment at the VA, which could be especially dangerous during inclement weather.

In Michigan, I will also continue to work to open a community-based outpatient clinic in Gladstone. Over 2 years ago, the VA announced to open the CBOC, as we call them, in Gladstone. Yet during every successive round of CBOC openings across the country, somehow our region just cannot seem to get Gladstone funded. It is estimated a Gladstone CBOC would provide much needed basic health care to our veterans, in fact, to approximately 750 veterans alone in its first year of operation. This facility is critical towards keeping our promise to those who serve our country so well.

I think today, Americans have a deeper understanding of the sacrifices of our military personnel than at any time in recent history. Our commitment to veterans must be more than just waving the American flag in times of armed conflict and recognizing them on national holidays. We owe it to our veterans to do more. We must be prepared to take their battle-borne scars of war and military service throughout their lifetime, and make sure they have the quality of service they need.

Today I was visited by a couple from Chassel, Michigan, representing the VFW. They handed me the VFW's priorities for the coming year. We can see here the VFW priority goals for 2004. It says veterans health care now, we earned it. If you look at it, it says the number one priority of veterans is health care. They say underfunding of the VA budget, 6-month waits to see a doctor, denial of care to category 8 veterans, little or no long-term care, little or no mental health care, and millions of fed-up veterans.

Well, those of us who represent rural areas, and no matter where veterans are, we believe they should be taken care of. There are special challenges for rural veterans, and we stand here tonight to urge this Congress to pass H.R. 2379 to take care of all of our veterans, but especially those of us who have veterans who live in our rural districts.

#### CARBON DIOXIDE CONTRIBUTES TO CLIMATE CHANGE

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, I did not come here to talk about veterans, but I will add my voice to the chorus of

voices tonight to endorse the legislation put forth by the gentleman from Nebraska (Mr. BEREUTER) and state that veterans deserve fundamental, sound health care in this country. Veterans' families also need that kind of health care because veterans fought for their families in foreign wars. As we move forward with health care, remember the veteran, remember the veteran's mother, remember all those in rural areas that we can work collectively to find ways to manage health care in urban, suburban and rural areas.

However, I came here tonight to talk about this lump of coal. This lump of coal and coal throughout the world for the last several hundred years has provided heat, warmth, security and in recent times electric power which has transformed civilization. Coal has fueled the modern era. Coal is made up mostly of something called carbon. Coal has been developed on our planet naturally by geologic forces over millions of years. As the carbon on the surface in the form of animals, plants, vegetation, rocks, you name it, gradually deteriorated, was forced underground, in some cases in mountainous areas, in other cases, flat areas, but basically was forced underground, sometimes 100 feet, sometimes miles.

When this lump of coal, which is made mostly of carbon, was locked up underground over a long period of time, it took an element out of the atmosphere called carbon dioxide, CO<sub>2</sub>, and locked it away. Over eons of time, these geologic forces, whether there was a lot of CO<sub>2</sub> in the atmosphere or much less CO<sub>2</sub> in the atmosphere, the geologic forces changed the climate.

Now the most recent climate change came about 10,000 years ago when the Ice Age ended. As the Ice Age ended, we moved into a warming trend. Over the last 10,000 years, the rate of warming has been about 1 degree centigrade every 1,000 years on a steady rate. That is 1 degree centigrade every 1,000 years.

Since we have been burning coal, which is carbon and then it turns into CO<sub>2</sub>, we have been releasing into the atmosphere the amount of CO<sub>2</sub> in decades what it took nature to lock up over millions of years.

So in the last 150 years, the earth has warmed about 1 degree centigrade. Previous to that time, the earth had been warming 1 degree centigrade every 1,000 years. Since we have been burning fossil fuel, we have been warming the surface of the earth's temperature, reducing glaciers, thinning the ice cap in the Arctic Ocean by about 40 percent. The American Geophysical Union, the National Academy of Sciences, a group of scientists which President Bush appointed, has confirmed that the earth from human activity has been warming fairly significantly over the last 100 years, but especially over the last 50 years.

Carbon is locked up in this piece of coal. When this piece of coal burns, it releases carbon dioxide which is one of

those elements naturally occurring in the world, naturally occurring in the atmosphere that balances the heat for the climate. When we infuse a significant amount of carbon dioxide into the atmosphere, the climate begins to warm faster. In fact, the EPA and other scientific institutions in the United States say that over 90 percent of the CO<sub>2</sub> released in the United States comes from burning fossil fuel.

What I would like to point out, Mr. Speaker, is this chart that actually goes from 1750 up to the year 2000. We can see from 1750, 1800, 1850, burning fossil fuel was minimal, so we do not increase CO<sub>2</sub> in the atmosphere very much. But once we get into the 1900s, especially 1950, CO<sub>2</sub> increases in the atmosphere from burning fossil fuels has had a dramatic effect. CO<sub>2</sub> is a naturally occurring element in the world. When we increase that element by the magnitude that we have, we have the potential for climate change.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### FUND VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODE) is recognized for 5 minutes.

Mr. GOODE. Mr. Speaker, first, I want to salute coach the gentleman from Nebraska (Mr. OSBORNE) and express my appreciation to him on his leadership on the Rural Veterans Access to Health Care legislation.

A concern that I have with veterans health care is the lack of access rural veterans experience in seeking treatment at a VA facility. I represent a largely rural area of Virginia in which over 60,000 veterans reside. In the Commonwealth of Virginia, over 96,000 veterans were treated last year at a VA facility. There are only three VA medical centers located in Virginia to serve these deserving and eligible veterans. The VA has worked hard to expand their services, and they have opened three community-based outpatient clinics, four vet centers, and six mental health satellite clinics throughout the State. Unfortunately, more is needed.

The Salem, Virginia VA Medical Center, serving southwest Virginia has identified the lack of access to care for rural veterans as a big challenge that it faces. They provide services for at least 11,000 enrollees in my district alone each year. It is essential that more community-based outpatient clinics be established to accommodate our Nation's veterans living in rural and outlying communities.

I am very concerned that the proposed increase for veterans health care

in the fiscal year 2005 budget is only \$1.2 billion over the amount enacted in 2004. It is proposed that we allow \$29.7 billion to meet the medical care needs of the over 4.2 million people treated in VA health care facilities each year across the country.

I believe that we need to take care of our veterans' needs first before we send our money overseas to help foreign countries. Veterans deserve the benefit of full funding of their health care system. I believe, along with a number of my colleagues, that we need to reduce the amount for international affairs in the concurrent budget resolution and increase the funding for veterans benefits and services by at least \$3 billion so that we can improve veterans' health care. I repeat, decrease foreign aid by at least \$3 billion and increase veterans health care by at least \$3 billion.

In fact, I would gladly support increasing VA health care by \$4 billion or \$5 billion. I have had a great deal of contact with many of our veterans over the last few months, and the sentiment among them is that their health care is being shortchanged. Over the years, we have supplied billions in foreign aid to countries like Peru and Iraq. We gave them millions upon millions of dollars. Also Ethiopia, South Africa, Mexico, Indonesia, to name only a few.

In fiscal year 2005, the proposed budget for international affairs will increase discretionary spending to \$31.5 billion, a 7.5 percent increase from fiscal year 2004, and approximately two-thirds of that goes to foreign aid.

I believe that we must carefully evaluate and prioritize our funds. We have a responsibility to support our veterans and to provide them with the best possible health care and to ensure that veterans have access to that care. We need to start prioritizing our needs as a Nation above those of foreign countries which have not always stood by us. The veterans have stood by us. They have carried the fight for us. They have made America great. We need to fund them.

Mr. Speaker, we do not need to fund the foreign countries that have not stood by us. I will not read the whole list, but there is a long list of recipients of foreign aid, and they have not been at our side recently, and have often not been at our side in the past. Let us fund veterans and not fund foreign countries who have not helped us.

#### VETERANS HOSPITALS STRUGGLING TO MEET DEMANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

Mr. ALLEN. Mr. Speaker, the men and women of the Armed Forces serve this country honorably. They put their lives on the line in order to protect our freedom and our values. We owe them our gratitude, and they deserve to be recognized and fairly compensated for their service.

□ 2045

They also deserve to receive the benefits and the health care that they need and have earned.

We are all aware of the crisis facing VA health care. Veterans are waiting unconscionable lengths of time for appointments. The President's now out-of-date Web site claims his fiscal year 2004 budget, the year we are in, which Congress increased by \$1.3 billion last year, would enable the VA to eliminate the waiting lists by the summer of 2004, this summer. Well, that is not the truth. That is not going to happen. Instead, VA hospitals are struggling to meet increasing demand; and year after year, my colleagues and I have to fight to increase the underfunded VA budget.

Veterans in rural States, such as Maine, face all of these problems, amplified by the fact that they may have to travel hundreds of miles to the nearest VA health facility.

Maine's single VA hospital, Togus, is located 100 miles from our southern border and 300 miles from our northern border. As anyone familiar with the cold and snowy winters will tell you, those kinds of distances are difficult, not to mention dangerous, to travel in the winter.

The VA has established access guidelines which provide that a veteran should be able to access primary care within 30 miles or 30 minutes from their homes in urban areas, and 60 miles or 60 minutes in rural areas. Only 59 percent of Maine veterans enrolled in the VA health care system meet those guidelines, and that means that more than 16,000 Maine veterans live outside the access standards, not to mention the veterans who have not even enrolled to get VA health care. Perhaps one of the reasons they do not seek VA health care is because they are so far away.

The VA's guidelines for access to inpatient hospital services provide that a veteran should live within 2 hours of inpatient services. Only 52 percent of Maine veterans meet this guideline.

Let me give you an example of what this all means in my State. Veterans in Maine, veterans have to travel to get specialized care, often to a Boston VA hospital; and if a veteran lives in the northern part of the State, say Caribou or Fort Kent, he probably cannot make a bus trip to Boston in one day. He will have to stay overnight in Bangor or Portland and take the rest of the ride the next day. On the third day, the veteran may finally have his appointment, and then either start back that day or the next day.

So you can see to get specialized care in Boston, a veteran from northern Maine may take 3 to 5 days to go down and get that care. Of course, a relative or friend may make the drive, and it might happen in 2 days or 2½ days instead of 3 to 5; but the problem is, how many people can afford to do that, how many people have the help they need?

We need to enable veterans living in the most rural parts of our country to

benefit from the same accessibility to services that veterans in more urban areas enjoy. In Maine, the VA staff did town hall meetings throughout the State to develop a market plan for the VA CARES process, and this plan recommended five new community-based outpatient clinics in rural areas to improve access, in addition to collaborating with the State's successful telemedicine program and to the continued use of contract care.

I urge my colleagues to take to heart these difficulties faced by veterans in rural areas. Expanding access to care, particularly in these rural areas, must be a focal point of our efforts to reduce the huge backlog of veterans waiting for health care.

As we consider the fiscal year 2005 budget and when we review the final CARES national plan, we must not let down our Nation's veterans. First, they deserve the highest quality of care, but we also must ensure that the VA health system provides access to that care for all veterans.

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### WASHINGTON WASTE WATCHERS REPORT ON TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise today as cofounder of the Washington Waste Watchers, a Republican working group dedicated to bringing the disinfectant of sunshine into the shadowy corners of the wasteful Washington bureaucracy.

As we speak, Congress is engaged in a debate over spending and the Federal budget. With a historically large deficit, Democrats are advocating that our answer is to raise taxes on American families. Democrats demand that we roll back tax relief, the tax relief that is responsible for the strong growth in our economy, the tax relief that is bringing down unemployment, the tax relief that amounts to only 1 percent, 1 percent, of the \$28.3 trillion, 10-year spending plan that we passed last year.

In other words, Mr. Speaker, 99 percent of the challenge in dealing with our Federal deficit is on the spending side. Clearly we have a spending problem, not a taxing problem in America; and I, for one, say when it comes to Federal spending, it is time to take out the trash. It is time to go after the costly waste, fraud and abuse that permeates every nook and cranny of the Federal Government.

Mr. Speaker, this body will soon take up the issue of transportation funding. Transportation is important. It is important to our economy; it is important to jobs. But before we sign a huge check drawn on the bank account of American families, should we not do everything that we can to ensure that every dime of transportation funding goes to roads, and not rip-offs?

Let me give you just a few examples. The Department of Transportation has historically squandered the hard-earned money of American families. Roughly two-thirds of Boston's "Big Dig" central artery is funded by Federal tax dollars. This has been called the greatest public works scandal of modern times.

This federally funded project has repeatedly exceeded cost estimates and lagged behind schedule. Is that not a surprise? But in the year 2000, the project was already five times more expensive than planned, \$11 billion over budget. An investigation revealed that project managers consistently were dishonest in their reporting of the project. \$11 billion of bloated budgets and mismanagement, and yet Democrats want to raise our taxes to pay for more of this?

Today the Federal Government is picking up 80 percent of the cost for a \$1.4 million project to upgrade just three bus shelters in upstate New York. For more than \$1 million of American taxpayers' hard-earned money, these bus shelters are going to be equipped with "radiant heating systems" and a layout "designed to appeal to passengers' sense of security." Even some of the beneficiaries of these new mansion-like bus shelters had concerns with its cost. One of the residents said, It just seems like a whole lot of money to me. Maybe they could just put some glass doors up.

American families are lucky if they can afford \$150,000 for a home, and the Federal Government is going to use their money to pay over \$370,000 apiece for bus shelters? And yet Democrats want to raise our taxes to pay for more of this?

Another investigation revealed that 29 Federal contracts worth roughly \$62 million were paid without any knowledge of whether they were even legally authorized. \$62 million that was not legally authorized, and yet Democrats want to raise our taxes to pay for more of this?

Mr. Speaker, these are just a few examples of the rampant waste, fraud and abuse and duplication in just one Federal agency. After you begin to look closely, you will discover that in many Federal programs, routinely they will squander 10, 20, even 30 percent of their taxpayer-funded budgets, and have for years.

There are many ways that we can save money in Washington without cutting any needed services and without raising taxes on our hard-working families, as Democrats seek to do. Because when it comes to spending, Mr.

Speaker, and Federal programs, it is not how much money you spend that counts; it is how Washington spends the money.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MATHESON) is recognized for 5 minutes.

(Mr. MATHESON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

(Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

(Mr. GINGREY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota (Mr. POMEROY) is recognized for 5 minutes.

(Mr. POMEROY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. BISHOP) is recognized for 5 minutes.

(Mr. BISHOP of Utah addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### THE CIRCUMSTANCES SURROUNDING PRESIDENT JEAN-BERTRAND ARISTIDE OF HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I would like to bring to my colleagues' attention the circumstances surrounding President Jean-Bertrand Aristide of Haiti, whose circumstances are somewhat in doubt tonight. I have spent a fair amount of time calling a number of people to find out whether President Aristide and his wife, Mildred Aristide, are in safe circumstances; and I have this report to make to my colleagues tonight.

We have called the offices of the Assistant Secretary of State, Mr. Noriega; the Secretary of State, Mr. Powell; the Security Council Chief, Ms. Rice; the President of the United States, Mr. Bush; the President of the

Central Republic of Africa; the ambassador to the United States of the Central Republic of Africa; the Secretary of Defense, Mr. Rumsfeld; and the head of the Central Intelligence Agency, Mr. George Tenet.

I was able to reach General Craddock, who works as an assistant to Secretary Rumsfeld, who asked that we send a communication so that they could begin trying to help us determine the whereabouts, and, more importantly, the safety of the circumstances surrounding President Aristide. We sent the following letter, which I include for the RECORD.

HOUSE OF REPRESENTATIVES,  
Washington, DC, March 10, 2004.

Hon. DONALD RUMSFELD,  
c/o General Craddock,  
U.S. Secretary of Defense, Washington, DC.

DEAR GENERAL CRADDOCK. This letter is written notification in response to a telephone inquiry on today's date of the location of Haitian President Jean-Bertrand Aristide. This evening the inquiry was conducted by a member of my staff, Bernard Graham, and yourself.

As per your conversation, please advise me as soon as possible as to the whereabouts of President Aristide. My staffer has informed me that you will start to retrieve this information tonight through proper channels.

This matter is of utmost importance to me and I look forward to your timely response.

Sincerely,

JOHN CONYERS, Jr.,  
Member of Congress.

In addition, I was able to reach Mr. Brian Newbert, the watch officer at the State Department, who was very cooperative, who was calling Bangui, the capital of the Central Republic of Africa, in an attempt to locate President and Mrs. Aristide. He was not able to do it. There is an 11-hour time difference. But he told me that he would continue this search in the morning.

Now, this problem has arisen because in last week's testimony before a subcommittee of the Committee on International Relations we were told by Assistant Secretary Noriega that it was true that a U.S. aircraft, or an aircraft controlled by the United States, had taken the President and his wife to the Central Republic of Africa. We asked him how were they doing, and he said that he did not know, because the United States Government's responsibility ended with him delivering President Aristide to this francophone country of 3.5 million people in the center of the continent of Africa, and that he had no further responsibility in connection with this.

This was a slightly shocking statement to the people that were in the hearing room, because it would have seemed that we might want to know what was happening to him from that point on.

We have a very sensitive and very serious matter here, and I hope that I will continue to enjoy the cooperation of the various heads of the agencies as we attempt to reach and make contact with President Aristide.

□ 2100

His country was overrun by rebels. He was forced to leave the country. He

left under United States auspices and control, and it seems to me that the most elementary act of courtesy would be for us to make sure that he and his wife, which we pray are alive and in good condition and safe, are that. But it is very disturbing to me to report to my colleagues tonight that not only have I not been able to reach anyone that has been in contact with him, but we do not know anybody that has.

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

(Mr. MCCOTTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### WASHINGTON WASTE WATCHERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MARIO DIAZ-BALART) is recognized for 5 minutes.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, as a member of the Washington Waste Watchers, and I just listened to one of my esteemed colleagues from Texas speak about instances of waste in Federal Government and why some of us have such a hard time understanding and believing why it is so easy for our good friends, the Democrats, to constantly ask for massive tax increases while we see the waste that goes on in the Federal Government.

I just would like to read portions of a memo from the Inspector General of the Department of Energy dated March 2003. It is an audit report regarding the transfer of excess personal property from the Nevada test site to the community reuse organization. Mr. Speaker, during the 1990s, as a result of changes in program direction of the Department, the Department of Energy downsized or reconfigured a number of different facilities, including this State of Nevada test site. To mitigate any economic damages or impacts, Congress then authorized the Department to transfer excess personal property and provide aid to these local civic development organizations that are commonly known as CROs.

These transfers, and that is what the memo says, these transfers were based on the express understanding that the property was to be excess to department needs, obviously, and also the memo then further states, despite the realization that the transfers might be made at less than fair market value, the Department was to receive, obviously, the Department was to receive reasonable consideration from these CROs for said personal property.

Mr. Speaker, I want to kind of talk about some of the results, though, of the audit. The audit disclosed that Nevada's personal property transfers

practices, I am quoting, "did not strike an appropriate balance between the efforts to assist community development and the need to assure," and this is the part that I just, again, I insist, when you read things like that, you wonder why the Democrats insist with such passion to raise the taxes on hard-working American taxpayer. Because this says, again, that there was no balance, no appropriate balance between the efforts to assist community development and the need to assure that the Federal taxpayers received reasonable consideration for property transferred to the local CROs. In fact, the audit says, we found that the taxpayers were frequently shortchanged in this process.

Yet, the Democrats want to raise the hard-working American people's taxes to do more of this kind of thing.

The audit continues, it says, In February 2002, a rig was, a drill rig was sold to the local CRO for \$50,000 that is now being offered for sale by an out-of-state equipment broker for \$3.9 million. You better believe the taxpayer was shortchanged and, yet, the Democrats insist on wanting to raise the taxes of the American people. It said that this group transferred hundreds of pieces of equipment, including trucks, office machines and trailers, purchased, by the way, by taxpayers, to the CROs for \$1 per transfer. And this is the part which is even harder to believe, Mr. Speaker.

It said, it provided laboratory equipment to the CRO that was needed at another department site, ultimately causing the Department to spend \$2.5 million to replace the equipment that they had basically given away. Another \$2.5 million to purchase that equipment a second time because it was given away. Nothing happens.

Now, the President is trying to change that, and he is aggressively trying to change that. We are going to have a debate tomorrow in the Committee on the Budget where we are going to try to stop this abuse. We are going to try to cut waste, fraud, and abuse. I hope that our dear friends on the Democratic side this year, for a change, do not propose amendments to raise taxes, to increase spending, but will join us in trying to cut waste, protect the American taxpayer. I do not have great faith, because they have not done so. That is not in their culture and their tradition.

I hope they do so, because the American taxpayer is fed up with waste, fraud, and abuse. They want help in cutting that waste, fraud, and abuse. All of us are going to have a great opportunity tomorrow in the Committee on the Budget in the markup.

I hope our dear friends on the Democratic side will not side with the constant increases of taxes, and will side with us to cut waste, fraud, and abuse, to seriously try to control that part of the budget, not increase taxes, not increase spending, spending more money, more good over bad over good over bad money, but will join us to not raise

taxes as they have always wanted to do, but instead will join us to keep the taxes low, to keep the child credits intact, to keep the death penalty tax from going up. As one of our colleagues said, there at least should be no taxation without respiration. And they will have an opportunity tomorrow.

Mr. Speaker, let us see what they will do. I hope that they will join us in fighting for the taxpayer, not fighting for more waste and more tax increases.

#### VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I would like to address my colleagues from Texas and Florida who have just spoken and called themselves the Waste Watchers, and they listed all of these wasteful actions of government, and then they said that Democrats want to raise taxes. I would like to remind them that their party controls the presidency. Their party controls this House. Their party controls the Senate. And the last election in Florida demonstrates that their party controls the Supreme Court. If there is all of this waste, why does not their party get rid of it? Why blame the Democrats for something that their party is responsible for doing? I just point out that the Republican party is in charge and, therefore, the Republican party is responsible for the waste that my colleague detailed before us tonight.

I would like to speak tonight about veterans health care. I attended a Committee on Veterans Affairs meeting today where the Veterans of Foreign Wars spoke before our committee. And those veterans are asking why it is that we are spending billions and billions of dollars to Iraq. \$87 billion the last time we got a request from the President. He is going to come back and ask for probably \$50 billion more following the November election, and yet, we are nickel and diming our veterans.

We have said priority 8 veterans can enroll in the VA health care system. The President actually sent us a budget during this time of war, and in the President's budget, he is asking that for many of our veterans, the cost of a prescription drug be increased from \$7 a prescription to \$15 a prescription. Now, for a veteran that is on a fixed income and may have 6 or 8 or 10 prescriptions a month, that is a heavy, intolerable burden.

The President's budget also asks that there be a user fee imposed upon veterans, a user fee of \$250 per year, just so many of our veterans can participate in the VA health care system. And then we have a request in the President's budget to increase the cost of a clinic visit for our veterans. We are piling burden upon burden upon burden on the backs of our veterans. I simply do not understand why we would do this.

In a time of war, when we are creating new veterans, many disabled, veterans with terrible injuries, veterans who have lost their arms and legs, many have been blinded, terribly disfigured, these are veterans who have newly fought for our country, and we are giving them a VA health care system that is woefully underfunded.

I simply do not understand why the President does not step up to the plate and put his actions behind his rhetoric and say, I am willing to pay whatever it takes to provide adequate health care for the men and women who have fought and suffered for this country. I call upon the President tonight to rethink his priorities. Rather than spending money to send a man to Mars, we ought to be spending money to take care of our veterans.

I have shared this with my colleagues in the Committee on Veterans Affairs. A couple of weeks ago I went to Walter Reed Hospital. I visited a young man from my district who joined the military when he was 17 years of age. On his 19th birthday, while standing guard duty in Baghdad, a truck bomb exploded and removed a large part of one side of his face. This young man who is only 19 years of age was at Walter Reed getting reconstructive surgery on his face. He is just one of thousands, and there probably sadly will be thousands more in the future.

This Congress, this President, those of us of both political parties, should put the needs of our disabled, sick, and needy veterans at the top of our priority list. I call upon all of us, myself included, to make our veterans our number 1 priority.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mrs. MILLER) is recognized for 5 minutes.

(Mrs. MILLER of Michigan addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### REAUTHORIZATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to discuss the reauthorization of the Transportation Equity Act for the 21st Century.

Mr. Speaker, in regards to transportation, we are indeed at a crossroads in this country. We have the intersection of the demands for creating the type of infrastructure which will facilitate commerce and move our citizenry, and trying to achieve some type of rational spending limits within our Federal budget.

Back home in my area of north Texas, we face a silent crisis. This crisis is unrecognized by residents until

they find themselves in an unbearable commute to work or unable to make the necessary connections between home, work, and the other activities that consume our daily lives. North Texas has experienced an increase in traffic over the past 3 decades, which is a result of unprecedented population and employment growth. Added to that is the underinvestment in Federal transportation dollars for my area.

The time is now to make necessary investments in our transportation infrastructure. In Texas, our transportation needs outstrip available funding 3 to 1, and these are not trivial funding needs. These relate to supporting international trade transportation, streamlining the environmental process, and expanding innovative financing techniques. Handling taxpayer dollars with care is, in fact, one of our highest callings in the House of Representatives. That obligation is enshrined in the Constitution. Our charge as congressional representatives is to protect dollars taken from the taxpayer by, in fact, streamlining and improving activities of our Federal Government, not just to simply spend and dispose of those tax dollars. And sadly, when Federal tax dollars are not handled with care, important Federal programs such as our transportation programs find themselves being hurt and neglected.

Last year, shortly after my election to my first term in Congress, I was very fortunate to be chosen to be a member of the House Committee on Transportation and Infrastructure, and I wanted to be certain that the United States Department of Transportation was ensuring the most efficient business practices within the agency. So I requested a meeting with the Department of Transportation Inspector General, Mr. Kenneth Mead, to discuss the business practices of the agency and how Congress could better facilitate removing inappropriate expenditures related to transportation funding.

□ 2115

The Department of Transportation has not changed the way the agency disburses transportation funding to State and local entities since President Eisenhower was in office. The Inspector General recommended that if one cent had been saved on every dollar spent over the last 10 years in transportation programs, the Department of Transportation would have had an additional \$5 billion to spend.

This \$5 billion would equate to the amount of funding needed for four of the eleven major transportation projects currently under way in this country. Clearly, greater efficiency within DOT could have an enormous impact on more efficiently spending taxpayer dollars.

Mr. Mead shared with me examples of how transportation projects could be used as examples or models of government efficiency. In the State of Utah in preparation for the Winter Olympics, Interstate 15 needed substantial im-

provements. By streamlining the design build process on that stretch of roadway, Interstate Highway 15 in Utah was completed ahead of schedule and under budget and available for individuals traveling to the Winter Olympics that year.

Similarly, in north Texas, the Dallas area rapid transit system worked within their budget last year and actually returned over \$21 million in transit funding to the Federal Government. Unfortunately, there are examples of transportation projects that are not carefully managed; and as a result, dollars are not wisely spent.

The Ted Williams Tunnel of the Central Artery Project in Boston, Massachusetts, known affectionately as the Big Dig, is perhaps the poster child for inefficient Federal spending in a transportation project.

The General Accounting Office has estimated that from fiscal years 1998 through 2001, the Highway Trust Fund Account lost over \$6 billion because of the ethanol tax exemption and the general fund transfer. Using the Department of the Treasury's projection of gasoline tax receipts, the GAO has estimated that the Highway Trust Fund Account will not collect \$13 billion because of the tax exemption from fiscal years 2002 through 2012. There is an almost \$7 billion shortfall from the general fund transfer between the same years.

Prior to the last reauthorization bill in 1998, the Highway trust fund earned interest on its balance, which was paid by the general fund. If the Highway trust fund had continued to earn interest on its balance, the Department of the Treasury estimates that the Highway trust fund would have had an additional \$4 billion from September 1999 through February 2002.

Between modifying DOT's practices within State and local governments and reevaluating the true purposes of the Highway trust fund, I believe we can work together to ensure our Federal Government is more effective and more efficient to the American taxpayer and that we indeed have the funds necessary to pay for our projects.

If we are unwilling to make the monetary investment and the necessary policy changes, I am afraid our vision for our Nation's highways will be that of a congestion-bound commuter sitting in a traffic jam watching the bridges and roadways crumble before our very eyes.

I think, Mr. Speaker, a very worthwhile goal would be to allow Americans to spend as much time in family discussions at the dinner table as they currently spend trying to get home.

#### TAX CUTS AND THE DEFICIT

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I came to the floor of the

House to address the concerns raised by my colleague, the gentleman from Michigan (Mr. CONYERS). But, Mr. Speaker, I just have to respond to some of the comments and debate that I just heard by my friends on the other side of the aisle.

It is interesting to call the Democrats the tax and spend party of America. And I recall that when we finished the work of the 1993 budget resolution and the 1997 budget resolution going into 2001 after President Clinton left office, the spring of 2001 saw this Nation with somewhere between a \$5 and \$7 trillion surplus.

Today as I stand here and on the eve of the Committee on the Budget's meeting tomorrow, addressing the questions of veterans health care and Medicare, Social Security, the threat that this administration has given to cutting Social Security, we are in a \$551 billion deficit based mostly upon very misdirected tax cuts by this administration on the backs of hard-working men and women.

To the 1 percent richest we have given all of the tax cuts, and we are digging a hole deeper than we could ever remove ourselves from and eliminating the needs of all Americans as relates to the services that this government has so aptly done before and having a balanced budget.

So I would just ask my colleagues on the other side of the aisle to return to their administration and their committee meetings and try to explain to the American people how we have gone down such a slippery slope.

Let me also say that when it comes to the job creation that occurred in the 1990s, this administration and Republican Congress is a dwarf, if you will, compared to the enormous steps and strides that were made under the leadership of the Democrats. 21,000 jobs that were made just in this last month, in terms of job creation, over 3 million manufacturing jobs that have been lost. And the 21,000 jobs were government jobs. No private sector job was made in the last month.

#### THE ADMINISTRATION'S POLICY TOWARD HAITI

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me now move to my comments that are associated with those of Mr. CONYERS. I again ask this administration for full investigation on the removal of a duly elected democratic president from Haiti, President Aristide and his wife.

President Aristide's most recent press conference in the last 24 hours again restates the fact that he was removed from the country without his consent. He was coerced; he was seemingly threatened and frightened into making a decision.

In a hearing that was held last week and questioning Representative U.S. Assistant Secretary Noriega on this question, rather than ask the question directly, he proceeded to be directly rude, if you will, and also to the extent of refusing to answer the question or be

responsive as I would expect a representative of the administration should be.

We now know that thousands of orphans in Haiti are now without food because there is no means of getting food supplies up into the locations where they are. We understand that children have been killed. A young boy who was willing to give his bicycle to one of the thug insurgents was shot dead on the street. Another young boy was injured by a flying canister and lost his life. A Fulbright scholar was fleeing for her life, having to leave the country because of the danger. Thousands of Americans have gone. The U.S. military, specifically the Marines, are in danger because of the refusal to increase the numbers of allied troops on the ground.

It is noted that in 1994 when President Clinton sent 20,000 troops into Haiti to uphold the Santiago Agreement which requires the United States to defend any duly elected democratic government in the western hemisphere, not one military personnel was harmed or was anyone else harmed.

So we know that we have a failure in this policy, we have blood shed in the street, violence in the street, and we have a duly elected president whose supporters are continuing to rebel, if you will, now in exile without any knowledge of his condition or ability to return to a place where he can engage in discussion and be part of a peaceful resolution of installing a peaceful government into Haiti. We have failed in this effort.

It is sad to say that we have not met our goals in Iraq. We have not met our goal in Afghanistan. Now we come full circle to the western hemisphere. Children are starving. People are dying. Violence is raging. No government there for us to negotiate with.

Mr. Speaker, I think for all of us this is on our hands. It is time now for us to stand up and be counted for peace around the world.

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The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

(Mr. PAUL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. NEUGEBAUER) is recognized for 5 minutes.

(Mr. NEUGEBAUER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Ms. HARRIS) is recognized for 5 minutes.

(Ms. HARRIS addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### INTERNATIONAL TRADE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 60 minutes as the designee of the minority leader.

Mr. DEFAZIO. Mr. Speaker, I come to the floor tonight to talk about the issue of trade. The Bush administration rolled up yet another record for the month of January, and I believe it deserves notice. It is quite an achievement. Our trade deficit widened to \$43.1 billion in January. One month, \$43.1 billion.

Now, they have been telling us for the last year just be patient, the dollar is overvalued, it is going to drop a little bit. And as soon as the dollar drops a little bit, why then, U.S. manufacturers will become more competitive and people will start to buy our goods again.

Well, I had two questions for them. I said what do we make anymore since we are exporting so much of our manufacturing to China? And will it not perhaps mean instead that Americans will buy more expensive goods that are made overseas and that, in fact, our trade deficit will widen? Despite all the Ph.D.s and experts and luminaries they have down there, apparently my concerns have been proven out and not the administration's.

In terms of goods, our deficit went from 44 last year to this year \$48 billion. In terms of services, we had a minor increase of about \$300 million.

So, the fact is we are hollowing out the manufacturing of the United States of the America. There is a new trend where we are hollowing out what was supposed to be the next generation of jobs and intellectual technology, and I will get to that a little bit later.

What does the Bush administration say in reaction to this huge and growing deficit in trade and the debt we are mounting up overseas? China alone, \$124 billion trade deficit last year. China is now the largest foreign holder of United States debt. And they are beginning to acquire assets in the United States of America with the huge pile of dollars they are amassing with this extraordinary trade deficit.

Now, the Bush administration's answer is, well, more of the same, free trade, free trade, free trade. They are unabashed radical, knee-jerk free traders. At least they are consistent. It is good. They went on the attack yesterday saying there are only two choices: the failing trade policies of today, which are hollowing out manufacturing, our industrial base, losing jobs, outsourcing, exporting jobs to other countries, quality jobs, losing the next generation of intellectual technology jobs, jeopardizing, I believe, in the future the security of the United States as more and more critical sectors and technologies are exported overseas.

Just last week in the Wall Street Journal, General Electric, there was an article about how they have sold a

whole \$1 billion worth of turbines to China. There was just a small price they had to pay. It is a state-of-the-art, newly developed turbine, took them half a billion dollars to develop it. The Chinese demanded, in violation of the WTO and rules-based trade, which the Bush administration is such a great fan of, demanded that they give them the technology in exchange for this rather insignificant purchase. Because the technology is going to be worth far, far more; and the Chinese admit they are going to use the technology to build competing turbines. But GE in a very short sighted way decided they would be blackmailed. They were going to give them the technology and get \$1 billion worth of sales. It will look good on this year's balance sheet, but not too good 3 or 5 years from now when the Chinese are eating their lunch internationally using the technology which GE went to so much trouble to develop.

But this is repeated time and time again by the Chinese. I have a small company in my district called Videx. They developed a new kind of scanning technology. They developed an electronic lock. They are selling in 44 countries, including, their mistake, China, where they were selling about a \$1 million a year. But it turns out, they say in China if you bring in intellectual property within 24 hours it is counterfeited and for sale.

And the Videx company had followed all the laws and protections, went to the trouble of getting supposed Chinese protection and patents and all that. One day they found their entire company had been cloned in China including their Web site. In fact, the Chinese, the fake Chinese Videx, had gone them one up. They had a little fake American flag waving at the top of their Web site, this Chinese company.

They even copied and translated into Chinese the U.S. copyright and patents on their software. They did not make a very good product, the company found out, because they started getting product support calls from people who thought they were clients of the U.S. Videx, but were actually clients of the phony Chinese Videx. This happens time and time again.

When I went to the Bush administration and asked that perhaps we could get some help, get my two Senators to join me in this for Videx, they are a totally American company, they have 160 employees in my district, they do all of their outsourcing in the United States of America, that is all their subcontracting, not in China, and employ people even in Texas to help build their product, the response, after a lengthy delay from the Bush administration, was that the United States of America will not file intellectual property complaints against China for theft of intellectual property, will not help this relatively small company Videx, because the big corporations, the multinational corporations who are exporting their factories to China would not like that

because it might cause problems with the Chinese government.

□ 2130

A pretty extraordinary statement. And that is what the Bush administration is now going to emphasize. They support these failing trade policies. They are trying to cover up the outsourcing of jobs. They have now banned at the White House the term outsourcing, job exports.

They talk about level playing fields. Well, it is not a level playing field when other countries can, when their government condones the theft of your intellectual property and will do nothing about it and your own home government will do nothing about it in terms of dealing with that foreign government. But now the Bush administration says they may in the future file some minor complaints about some of the tariffs the Chinese have. They would not want to tread on the Chinese's toes here. They do not want to go after the big problem here, which is the outright theft of American technology or the blackmailing in violation of the WTO of American corporations to sell there, and other practices of the Chinese government, the things that are costing us so much productive capacity and jobs.

The Bush administration says they want a level playing field. Well, if it is not going to be level there, where is it going to be level? Are they saying that they will bring up the wages of the Chinese workers, that they will see that the Chinese follow worker health and safety protections? That they are going to see that the Chinese begin to enforce minimal environmental laws?

No, I guess what they mean by level playing field is in the vision of the Bush people we will drag Americans down to that level and then we will be competitive. If only Americans would work for \$1 a day, they could compete with the Chinese. Because they are competing not in old crummy, labor-intensive shacks and factories, but in state-of-the-art world-class factories built significantly with American capital, multinational capital and American capital that is being invested in China to access the cheap labor, to access the lack of worker health and safety protections, to access the lack of environmental protections so they can dump the waste right out the back door.

So the level playing field is a pretty phony argument. They are banning the word at the White House, globalization, outsourcing, as I said. And they are going to call people who want to call for a new trade policy, one that does not fail our country so badly. One that does not run a \$500 billion-a-year trade deficit; one that is not hollowing out our manufacturing trade capabilities; one that is not seeing some of our best technology either extorted or stolen by the Chinese and other unfair traders.

They have no answer to those things. They just say more of the same is

going to help, and anybody who wants to do anything about that is an isolationist. Well, they are either fools or they are deliberately, as some have said, facilitating Benedict Arnolds and others who are exporting American jobs, technology and undermining this country. It is not clear which on certain days because when you see today's news, you have got to wonder what is really going on down there.

Six months ago, the President announced he was going to create a job, a job in America, that related to manufacturing. That was the President's promise 6 months ago. Here we are 6 months later, and he is on the verge of creating that job tomorrow. Congratulations to the President. One job related to manufacturing. That job will be the so-called manufacturing czar, someone who is going to try to find out what is wrong. Why is the U.S. hemorrhaging its productive capability to China and other unfair traders with extraordinarily low wages? For most Americans and for me it is pretty obvious; but to the Bush administration it is not, so they need a manufacturing czar. It took them 6 months to find the right guy.

It would have been good if maybe the manufacturing czar could be by the President's side when his name is released tomorrow. They will be doing this in Ohio, which has suffered horribly with the loss of productive capability. But the gentleman in question is not available. His name is Tony Raymundo, is not available because he is in China. He is in China where his company is building a factory. It is kind of like an awfully bad joke here. The Bush administration in dealing with China and the outsourcing of jobs is going to put a manufacturing czar in their administration who is over in China overseeing the construction of his own plant in China. And, no, I am not making this up. That is actually true.

So the Bush administration says soon they are going to push hard, as I said earlier. They are going to ban the word outsourcing, globalization. They are going to empower the word "insourcing" at the White House. They are going to brand people like me who have been raising the alarm both in Democrat administrations and Republican administrations about the failing trade policies of this country. I bitterly opposed Bill Clinton's push for NAFTA, and I think that was a shameful moment in the Clinton administration and began the undoing of our productive capacity. I think it was only really facilitating Bush One and Reagan who had negotiated the agreement. But, unfortunately, Bill Clinton saw fit to jam it through the Congress. But now Bush is taking all that one step further.

His newest free trade agreements, first, he wants to expand NAFTA, which promised the United States hundreds of thousands of job and trade surpluses with Mexico, which has brought us huge and growing trade deficits with

Mexico and lost us hundreds of thousands of jobs, actually the reverse effect of what they have promised. But the President wants to replicate NAFTA all the way through Central and South America. The President has a proposal called CAFTA. CAFTA would expand NAFTA to all of Central and South America. Imagine how many jobs and much capacity we could export to Central and South America if the same rules applied all across that entire region.

The President is right now; it is held up because the Republican majority is a little bit nervous on voting on such a gigantic expansion of a failing policy in an election year. But you can be certain if the President is reelected, we will either have a special session or at the beginning of the next session of Congress he will be jamming through this mega-expansion of NAFTA, doing what Bill Clinton did with NAFTA, 10, 20 times over.

But even better, the President has shown us a model in some of his proposed free trade agreements which also certainly does exceed the problems with the Clinton administration on trade. The Chile and Singapore agreements are cases in note, free trade agreements voted for by this Congress and signed blithely by the President last year. In the case of Chile, it is the first-ever trade agreement to mandate the importation of foreign skilled labor.

Yeah, that is right. It is an actual section of the bill that establishes a new category of Chilean workers to be imported into the United States to be trained in the jobs that will be exported when the companies move to Chile. It is efficient for those companies, that is true, but does not do a whole heck of a lot for the American workers left here holding the bag when their job has fled south to Chile. But that is quite an extraordinary new improvement if you think, as the President's chief economic adviser does, that exporting jobs is good. Now, I am not making that up either.

Mr. Mankiw, the President's Chief Economic Adviser in the economic report to the President signed by the President of the United States, endorsed by him, says, "Outsourcing is just a new way of doing international trade. More things are tradeable than were tradeable in the past and that is a good thing. Shipping jobs to low cost countries is the latest manifestation of the gains from trade that economists have talked about for a century."

Is that not peachy. That is Mr. Mankiw, the President's Chief Economic Adviser, expressing the opinions of the President and his administration that the export, the outsourcing, a word now banned at the White House, of U.S. jobs overseas is a net benefit to our country under the theory that things will be produced more cheaply there which will be good for American consumers. Of course, a little fallacy with their logic here is if Americans

cannot find jobs, and we have growing unemployment and job loss under this administration, then no matter how cheap the goods get produced in China and some other place that might even produce things more cheaply, Americans are not going to be able to afford those goods for long; and ultimately that will lead to some very severe economic problems. But they persist. They are stubborn at least. And the President is going to push for more free trade.

Now, we have some research here about outsourcing, a word banned at the White House now, but that is the export of American jobs which they are no longer going to reference at the White House; and one company, Deloitte Research, predicts 2 million jobs will be exported in the next 5 years; Forester Research, 3.3 million white collar jobs in the next 15 years. Those were the intellectual technology, high-technology skilled jobs that we had heard for so long, what did they say to me when I raised concerns early on about these trade policies? They say, Congressman, you do not understand. These are the old obsolete manufacturing jobs. We do not want them anymore. I said, I do not understand how we can be a great Nation, a great power, if you do not make things anymore. They say, Do not worry about it. We will not make the things but will design them, and we will have all of the brain power. We will retrain all those workers to run computers and work in the high-tech industry.

Now we find that industry is flooding overseas very quickly and expect 3.3 million of those next-generation jobs will flow overseas the next 15 years. The question becomes, what is next? They said, we do not know, but do not worry, something always comes along. That is a heck of a thing to bet your economy on.

Mark Zandy of economy.com estimates 995,000 jobs have been lost overseas since March, 2001. That is about a third of the jobs that the President has lost on his watch, since he has been President, have been lost overseas. Yet he believes that our trade policy is working, and the head of his economic council says it is working just exactly as it is designed. It is exporting jobs overseas. That was the intention of the trade policy and they are standing behind that. But they will not use the word outsourcing anymore down at the White House.

The Gardner Group estimates that 10 percent of jobs at U.S. information technology vendors will move offshore within the next year. IBM is exporting 5,000 jobs to India, China, and Brazil. They will save \$168 million a year by doing so. This is a very, very disturbing trend. Computer programming jobs in the U.S. that pay 60 to 80,000, nice wage, but it also recompenses someone for a heck of a lot of education and training. They go for about 8,000 in China; 5,000 in India; 5,000 in Russia.

So when the President says we will have a level playing field, I guess he is telling people to go to college for 5 or 6 years, get a masters degree, become a skilled computer programmer, run up 40, \$50,000 in debt or more in obtaining that education, and they should work for \$5,000 a year because that will give the President his level playing fields in these areas because Mr. Mankiw says it is good that those jobs are so much cheaper there.

Think of how much cheaper the products will be. Of course, what most of us see is the products really are not that much cheaper, but the profits which flow to a relatively small number of people; the profits are much better.

According to a recent survey of 1,091 CEOs, 27 percent planned to export jobs within the next 3 years; 20 percent, one-fifth of the CEOs polled in America expect to export jobs in the next 12 months. They say, and there is a new big business coalition that has come together about this, and like the White House, they want to ban the word outsourcing. I think that quite soon John Ashcroft is going to begin having people who use the word outsourcing arrested. But the word they want to use now is worldwide sourcing. And these business lobbyists, as it says in this article here, business lobbyists are talking to the Bush administration about adopting this language. But, of course, as we know from the article I read earlier, the Bush White House did in fact adopt that term just yesterday to emphasize, and they have of course banned any discussion of the exported jobs.

We have got a few other problems. Here is Craig Barrett, the CEO of Intel. This is 1/26/04, New York Times: "If you look at India, China and Russia, they all have strong education heritages. Even if you discount 90 percent of the people there as uneducated farmers, you still end up with about 300 million people who are educated. That is bigger than the U.S. workforce. The big change today from what has happened over the last 30 years is that it is no longer just low-cost labor you are looking at; it is well-educated labor that can effectively do any job that can be done in the United States."

He goes on to say, this is Craig Barrett, the CEO of Intel, the company that was going to produce the next generation of jobs for educated and skilled Americans here: "Unless you are a plumber or perhaps a newspaper reporter or one of those jobs which is geographically situated," cutting lawns at the estates of rich people, for instance, "you can be anywhere in the world and do just about any job." Barrett was asked, Are we not talking about an entire generation of lowered expectations in the United States for what an individual entering the job market will be facing?

□ 2145

He responded. It is tough to come to another conclusion than that. If you

see this increased competition for jobs, the immediate response to competition is lower prices and that is lower wage rates. Back to what the President is talking about with a level playing field. Americans should go to college, graduate and expect, as skilled computer programmers, to work for 5 or 6,000 a year in the world of Mr. Mankiw, President Bush and the CEO of Intel, Craig Barrett. That does not sound like a tremendous bargain to me, I think, or to most Americans who I represent.

Jeffrey Immelt, CEO of General Electric, now here is a company who does not just engage in intellectual property. They make great products. I fly on planes back and forth across the country, will be on one tomorrow, and a lot of them have GE engines. I have been to the plant they still have in the United States, great stuff, incredible product. But here is an investor meeting in 2002.

When I am talking to GE managers, I talk China, China, China, China. You need to be there. You need to change the way people talk about it, how they get there. I am a nut on China. Outsourcing from China is going to grow to \$5 billion. Well, it has already eclipsed \$5 billion. He was a little modest in his estimates. Outsourcing, that is, U.S. job exports to China with U.S. or multinational producers, U.S. capital producing jobs there, producing products there and shipping them back to the United States. Every discussion today has to center on China. The cost basis is extremely attractive, i.e., cheap wages. You can take an 18-cubic foot refrigerator, make it in China, land it in the United States, land it for less than we can make an 18-cubic foot refrigerator today ourselves.

This list, I cannot possibly do justice to and read the entire list, but this is a list from Lou Dobbs on CNN, someone who formerly was a great supporter and advocate of free trade policies until he studied it a bit, until he looked at the impact on hollowing out the intellectual might of our country, the industrial might of our country, the loss of jobs. Every night now on CNN he talks about the issue of exporting America, outsourcing jobs.

He has a list here of companies that are exporting America. They are companies either sending American jobs overseas or choosing to employ cheap overseas labor instead of American workers. As you can see, it is quite small print, and it goes on for pages and pages. It is available on his Web site. He has talked about it extensively, but the list is shocking, and I would urge that for reading for all Americans, particularly those who are unemployed because of these policies, have a lot of time on their hands and wonder what happened to their job. They can read this list and see perhaps where it went.

Now, all this is bad enough, but guess what. We are asking American taxpayers to subsidize the export of jobs

to foreign countries. It has been estimated that if we repealed any reference in the U.S. Tax Code to overseas income, that that means no taxes at all. I mean, once a U.S. company went over there, we would not even think about taxing them. We would save \$20 billion a year. That is how much they are able to deduct from their U.S. income by producing overseas with cheap foreign labor. We are through some other programs actually giving direct subsidies to companies to set up manufacturing overseas.

So, in terms of solutions to this problem, the first and easiest thing it seems that we need to do is stop any taxpayer subsidy for these conglomerates, multinationals and even some U.S. firms from outsourcing their jobs, a word again not allowed at the White House, to India or China or Mexico or elsewhere. Then after we do that, we need to begin to actually use the rules of trade.

Remember, the President came to Congress a little more than a year ago, and he said the Chinese, really, the only way we are going to get them to clean up their act, it is true, they are violating intellectual property left and right, they are doing all sorts of things to undermine us, but the only way we are going to become truly competitive in China is if we give them what is called Permanent Most Favored Nation status; that is, we would no longer annually review, as is required of all Communist countries and they are a Communist dictatorship, their trade status and determine whether or not we would renew it.

That drove some of the largest corporations in this country absolutely berserk because they wanted huge amounts of capital and produce their goods over there, and the prospect of having China lose Most Favored Nation status on an annual basis would drive them into a lobbying frenzy every year.

So they successfully lobbied the Bush administration, saying we are going to make it permanent, never again will we review China for unfair trade, but instead we will shift our emphasis to the World Trade Organization, and we will have rules-based trade. I have already talked about the company in my district that has been cloned in China, illegally, copying their U.S. copyrighted and patented and even Chinese copyrighted and patented product in violation of Chinese law, U.S. law, international law, and the rules of the World Trade Organization, and the Bush administration has said they will do nothing about it.

In fact, every year the President's special trade representative puts out a report which documents page after page after page of intellectual property theft by Chinese firm. Again, as I said earlier, apparently within 24 hours of bringing intellectual property into China it will be copied and available on the market, sometimes good quality, sometimes lesser quality.

So how many complaints has the Bush administration filed since the ob-

jective was to get China into the WTO and use rules-based trade to really teach them a lesson against China? Well, none, none, zero. How many have they failed on the issue of intellectual property worldwide? None, none, not one. It seems that it was a false promise. I am not supporter of the WTO, but we are stuck in it, and I do not think we should be in it, then we should at least use its rules that would advantage American people, American consumers, American workers, we should use it, because we certainly see it used by other countries to our disadvantage, but this administration is refusing to do that.

I will give another example and it is very timely, the issue of oil. The OPEC countries have meetings every month it seems lately, and they decide on quotas and what they are doing intentionally with those quotas is restricting the supply of oil, creating artificial shortages to drive up the price, 38 bucks a barrel now, seen the price at the pump, heading up toward \$2 in my State, and I hear it is even higher in other parts of the country. I bet you Memorial Day it will be pushing two and a half, three bucks in places around the country.

The oil companies always tag on a little extra margin so they are doing fine. Their profits are up, but the OPEC countries obviously are getting a bundle of money from us, too.

The only problem with that is that five of the eight major countries in OPEC are in the WTO, and guess what. Rules based trade, the WTO, does not allow countries to get together, producers to get together and collude to restrict supply to drive up the price. Again, this is something I asked the Clinton administration to investigate and file a complaint with the WTO on, and they refused. I have asked the Bush administration to file a complaint on this, and I got back after 6 months a nice letter from the White House counsel saying, no, they would not do that and in their opinion that it was just fine if OPEC colluded to drive up the price of oil in violation of the rules of the World Trade Organization, international law, U.S. law to gouge U.S. consumers. They really just did not think that it merited a complaint or their attention.

So this whole thing that the Bush administration is now going to push after banning the word "outsourcing," after calling people who are calling for new trade negotiations, for new trade rules, for rules that do not hollow out this country, the Bush administration calling people like me and others isolationists, they want to just say there is nothing but what they are doing which is failing or isolationism.

I say there is another way to deal with this within the existing frameworks by pursuing complaints, by protecting American consumers, and try to keep some of those jobs home. I would go further than that. I would say ultimately we are going to have to

look at managed trade because you simply cannot, as the President is saying here, asking American workers or the head of Intel to compete with \$5,000-a-year engineers overseas, we cannot drive our country down that far and our people down that far, maintain our great stature and our standard of living. We should not be asking them to do that. We should not be thinking about doing that. We should not be allowing our companies to be blackmailed, to give their state-of-the-art technology to countries like China for a pittance. We have got to stand up for our own.

We are essentially in a trade war. This guy wants to be the war President. Well, I tell you what. This war is a war that has some extraordinarily serious implications for the future, not only of the military security of this country, but the economic security of this country, the basis of the wealth of this country, and we are fighting right now with both hands tied behind our back and a blindfold and ear plugs down there at the White House. They do not want to hear about it. They do not want to engage in it. Well, if they do not start doing that soon, we are looking at some very, very dire implications for the future of the American economy.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, I just wanted to commend the gentleman for coming to the floor this evening and discussing the issue of these trade groups and the impact on the outsourcing, and I really believe that this is the most important issue facing the country right now.

I just wanted to come and maybe I could ask you a couple of questions relating to what you said. I thought it was very interesting, I read an article a couple of months ago, maybe it was less, in the New York Times, about NAFTA, and I voted against NAFTA. I voted against Fast Track. I think the only one of these I may have voted for was the Jordan one because they had negotiated it so that there were sufficient labor and environmental safeguards, but generally speaking, I have opposed all these major trade agreements exactly because I am worried that we give away the store and we do not provide any protections that arrive at what I call fair trade.

Even the President, if you listen to him, will say that even though he is a free trader, he believes in fair trade in the sense that there is supposed to be some reciprocity, but as you point out, that reciprocity never exists. There is never anytime that I can remember when the President invoked any rule or said that we were going to, as you said, file a WTO complaint or complain about other countries' treatment with regard to trade.

Anyway, this article said that with regard to NAFTA, essentially the

United States lost big time. Mexico, interestingly enough, lost big time because their standard of living and their workers wages actually declined I think during the time that NAFTA. It said the only country that may have gained somewhat was Canada, and I am not an expert on this. They said the reason for that was the Canadian government basically involved themselves in what you might call economic nationalism. In other words, they knew they were getting into this NAFTA agreement, they knew that some jobs were going to be lost, but their system provides that at the government level, if some jobs are lost to the U.S. or to Mexico, that they quickly figure out areas where they can train people and basically take over through national policy the manufacturing or whatever it happens to be, and they provide very generous benefits to people who lose their jobs so they do not lose their pension or their health benefits or whatever else.

So it was sort of their aggressiveness and their willingness to be involved in figuring out where to be aggressive in terms of trade that made them a winner, so to speak.

Again, these are gross generalizations, but I was listening to what you said because it seems like we do not in any way involve ourselves in what you might call economic nationalism. Nobody in the Bush administration is in charge, or even I guess would imagine that they would try to look at the flow of trade in the way to try to take an advantage for American workers or protect American workers.

□ 2200

And even if you look at the European countries, if somebody loses their job, they usually have something, some wages or some income or some benefits that they can live on. It is almost like we just cry uncle. We say, okay, we are going to sign all these free trade agreements; we do not really care. Let the chips fall where they may. We lose jobs, it does not matter. Everything is outsourced; it does not matter.

It is this complete lack of concern about the American worker, which I think was epitomized with the President's economic report, which the gentleman mentioned several times, where his chief economic adviser, whatever his title is, said that outsourcing was a good thing.

I completely agree with the gentleman. If you take this to its extreme and say we are going to sign more of these free trade agreements, which the President is now negotiating with Central America and there have been several that have passed here in the last couple of years, Singapore, I forget there are so many, and there are more he is negotiating, now Morocco, I think, is ready, if we just say it is okay, *laissez faire*, or whatever the word is, I just do not see any end to it. There is no way we are going to compete.

I guess my question to the gentleman is, Is it really true a lot of these coun-

tries, the gentleman mentioned China, practice economic nationalism? They take advantage of these free trade agreements to either subsidize an industry or capture a market and we do not do anything of that sort? I wanted the gentleman to comment on that.

Mr. DEFAZIO. Well, Mr. Speaker, let us go to Europe, which is a higher cost competitor than the United States with all the social welfare and all the other programs over there. Airbus is now exceeding Boeing in terms of production. Now how can that be? Well, all of their costs of development are subsidized by the European consortium. If you buy an Airbus plane, they will throw in goodies. Buy an Airbus. Well, there are no slots to land at Heathrow. Buy an Airbus, we have a spot to land at Heathrow, prime time. Oh, okay.

So they use the laws and the rules of their own countries and the European Economic Union to further their own critical technology and high technology and high-value manufacturers like Airbus. Boeing is now going to China and Japan. It will not be long before we do not make planes in this country any more. Then what happens?

So they have a much more global view and long-term view of where they want to be positioned in the world economy, and we are just engaging in *laissez faire*, saying, no, our highest priority is the cheapest production of a good by the cheapest unit of labor somewhere out there, and we do not care what it does to our economy or the people at home because it is good for consumers. But, again, consumers are not able to consume much if they do not have jobs.

Mr. PALLONE. If the gentleman will continue to yield, Mr. Speaker, the reality is when we challenge the President, the gentleman from Oregon, myself, and others, and say, look, your economic report that came out essentially says that that is your policy, let the jobs go wherever they want, we do not care, whatever, this will save American consumers, the President and a lot of Republicans here in the House backed off from that and said, oh, no, we really do not mean that.

I think they realize if they say it the way we just did, which is essentially the way the economic report of the President said it, it is just not acceptable. Nobody buys that. Rationally you cannot sell that, so to speak, to the American people. So now they are backing off and saying we really did not mean outsourcing was good, but they have not changed their policy in any way. They are still trying to negotiate all these free trade agreements without any safeguards.

Mr. DEFAZIO. Right. They want to keep doing, in fact, more of the same thing, but they want to pretend they are doing something else. And then they come up with all sorts of words. Like I said, they banned the word outsourcing at the White House. Mr. Mankiw was taken to the woodshed and beaten severely for having been so

truthful about what they are doing. He is an academic; and he thought, well, I should put up the theory to show why it is what we are doing what we are doing. So they want to keep exporting America and our jobs and outsourcing, but they are going to call it something else.

I think it is particularly bizarre that their new manufacturing czar, who it took 6 months to find, is over in China and unavailable for comment because he is building a plant over there. That kind of goes to the issue too.

Mr. PALLONE. The amazing thing, too, is we saw a document yesterday, and I do not remember the name of it, but I will kind of summarize it, that basically showed that as far as the economy was concerned the stock market continues to go up, there is still a demand in the United States for manufactured goods, and so far the consumer spending is out there, people willing to spend money and buy things; but the big flaw in this economy and the reason why we are not doing that well economically is because of the loss of jobs.

So if we just managed to somehow practice, I call it economic nationalism, I do not know if that is the word, and say, okay, look, we are just not going to let all these jobs go overseas, we are going to be careful about it, we are going to demand that American companies hire people here, we may pass certain laws that make it more difficult for them to send jobs or production overseas, that probably the economy would be in pretty good shape. The jobs would be there.

It is not like we are a poor country. It is just that we are shipping everything overseas without any regard whatsoever for our own public.

Mr. DEFAZIO. In fact, the Bush administration said that the huge growth in the trade deficit, the \$43.1 billion last month, we are borrowing \$43.1 billion from overseas to finance our purchase of goods made overseas, putting people out of work here was showing that our economy was reviving. Well, wait a minute.

Mr. PALLONE. That is amazing.

Mr. DEFAZIO. What about jobs here? What about production here? They are happy with the way this is going.

Mr. PALLONE. The gentleman is exactly right. I have actually had discussions with Republican colleagues, and they have said to me, well, you act as if the economy is not doing well; and they point to all these indicators like the stock market and productivity and all these different things. And I just kind of stare at them and say, well, what does that matter if people do not have work, if people do not have jobs, if people do not have income? Ultimately, we will suffer, because if we do not have jobs, we will not be able to buy anything.

What was it Henry Ford said? I am not going to be able to build cars unless people can afford to buy them. It just seems like you cannot convince

the President or the Republican leadership that somehow the job problem is a problem. They do not buy into the idea that it is a problem, yet they will not admit that their policies are what they are. They just continue to say, well, this will solve itself somehow. This will come around and the jobs will be created.

The President keeps saying, well, we are going to create more jobs next month, and then the February report came out and said there were no new private sector jobs net resulting. So I am just sort of baffled. Because I go home and this is what people talk about to me, they talk about how they had an IT job and it went overseas. I talked to some physicians the other day who told me that now their x-rays are shipped overseas, and they have them back the next day.

The public just sees this gradual creeping up of every type of employment being lost overseas, and we just keep passing these free trade agreements. It is just very frustrating to me because I think that this issue has to be addressed. And it does not seem like it is that hard to address it, yet we do not see any effort on the part of the Bush administration to do anything about it.

Mr. DEFAZIO. Mr. Speaker, if I could, we are politicians talking. I was doing a round of town hall meetings in my district, and this is a pretty short letter so I would like to read it. Rayburn M. South, Oakland, Oregon, rural town in Oregon, and he wrote what he considered to be the State of the Union.

He said, I could not afford a new car. He is an older gentleman, does not have a large income, \$18,000 to \$20,000. I bought a used car and drove it home. Looking it over, it was made in Mexico, a Nissan. I had to buy a jack so I could service my car. Went to Sears, bought a Craftsman jack. Came home, unpacked it. Made in China. Then I needed a pair of shoes. Came home, looked at the bottom of the shoe. Made in China. Ran out of batteries for my light. Came home, took the paper off the batteries, maximum alkaline batteries. Made in China. Christmas came. Someone gave me a shirt. Cutting the tape out, one read "Made in China." Then my TV went on the blink. Looked around at TVs. Bought a good old RCA. I thought it was a good old American brand. Brought it home, unpacked it. Made in Mexico. Then I called my cousin in North Carolina. She was laid off. Her job went to Mexico. I called my other cousin in North Carolina. She is working 2 days a week. She does not know where her job is going. Seems like the people in China and Mexico are doing pretty good. We have a Congress, Senate, and President. Surely there is something you can do to help our people. Something stinks. Sincerely, Rayburn M. South, Oakland, Oregon.

He speaks with more wisdom than most of our colleagues here in Congress who are ignoring the reality of this

problem and just saying, oh, just hang in there, something will happen. Well, the something that is happening is really pretty bad.

As I think I said earlier, they told us if only the value of the dollar drops, our goods will become cheaper, and we will sell more abroad. The value of the dollar is down 35 percent, and yet the amount of goods that we imported is up over a year ago by \$5 billion, a deficit in goods. So how far does the dollar have to drop and what are the implications for the U.S. consumers and our standing in the world if the dollar gets into something like Argentina?

I spoke a couple of years ago to a couple of economists, and I said I am pretty worried. I look at Argentina, and I said, I think that used to be one of the wealthiest countries in this hemisphere. They have an educated populace and a lot of stuff going for them, and look. I said their economic collapse is extraordinary. I said, but when I look at where we are, their deficit in trade was less than ours as a percent of GDP and their foreign debt was obviously much, much lower than ours. We owe over \$2 trillion around the world because of these trade policies. I said, I think maybe we could become Argentina.

I said to these economists, I think this could happen in 5 or 8 years. And they sort of leaned over to one another and whispered; and then one of them said, no, no, no, it will take at least 10. But the response was not, no, we are not at risk of becoming Argentina; no, we are not hollowing out our wealth, our manufacturing, our future; no, we are not exporting new technology jobs; no, everything is going to work out. The response was, well, it will take a little longer than that to totally destroy our standing in the world and our economy.

That is a pretty alarming statement; but they said, oh, yeah, that is kind of the way things are going.

Mr. PALLONE. The other thing, Mr. Speaker, the gentleman has just pointed out, which is important, is that we do not have to accept what is happening. In other words, some people have said, okay, we have already signed some of these free trade agreements, they are in effect, the WTO is in effect, the U.S. is in it. But the bottom line, as the gentleman pointed out, is there is a lot we can do.

First of all, we can sort of review all these agreements. I think it was JOHN KERRY who said that once elected President that he would spend like the first 6 months reviewing all the existing free trade agreements to see to what extent they are harming the United States. And as the gentleman pointed out, the U.S. can file complaints with the WTO, can investigate how these other companies subsidize things and dump them in the United States. There are a lot of things we can do that this administration is not doing.

And most important, stop signing new free trade agreements with other

countries. Because I guess the majority of countries still do not have free trade agreements with the United States, and so simply not continue the policy until we review it and see how we can protect ourselves.

Mr. DEFAZIO. Oh, Mr. Speaker, my colleague just used a bad word. Protect. We should protect the American standard of living? We do not want to become protectionists. That is what this administration would say.

I agree with my colleague. There is something at risk here. I think we are in an economic war, as I said earlier. I think we need to protect ourselves and maybe fight back. And this administration is choosing not to do that because there are a few people here in this country who are accumulating just fabulous wealth by outsourcing, by moving jobs and production overseas, producing goods much more cheaply. They are selling them at roughly the same price back here in the United States, but the profit margin is a lot larger.

I noticed a number of years ago when we could still buy shirts made in America. I think that is probably something we cannot do any more. But I used to go through the labels looking for them, and 5 or 8 years ago I could still find some. I would notice they were right on the rack next to shirts made in Bangladesh or somewhere else, and they were all the same price.

The Bangladesh shirt did not sell for 15 cents. It sold for \$25. The U.S.-made shirt sold for \$25. The person who made the U.S. shirt made enough money to raise a family, buy a home, be a productive citizen in our economy and live a good life. The Bangladeshi was earning less than a dollar a day, very often child labor or whatever else, but they sold for the same price.

That is what is going on now, except now there is this new spin where the Bush people say they want a level playing field. And if their level playing field does not bring other people up, which they are indicating they have no intention of forcing, then what they are saying is they are expecting Americans to come down, as the CEO of Intel said. If people want to compete, they have to look at competing with engineers from Russia who earn \$5,000 a year.

Mr. PALLONE. It is just amazing. I was at a clothing store for kids with my wife buying some things for the kids, and I searched throughout and I think I counted 50 countries that were on the labels, and the only thing I could find that was made in the United States were some socks. And then another day I was at Cracker Barrel on the way back to New Jersey on 95, and I had to wait in line, so I just looked around to see if there was anything made in the U.S. I found one shawl, or something like that, that was made in North Carolina. A cotton shawl. That was the only thing in the place.

□ 2215

As the gentleman said, they were certainly no more expensive than the

other things in the store. They looked like they were on the way out. Once they were sold, I felt like I was looking at the last item. My own town of Long Branch was a major textile center. My grandmothers on both sides both worked in textile factories and raised the kids that way.

The Bush administration does not do anything to try to promote American manufacturing or American jobs. They basically follow this policy that it is okay for everything to flow out of the country. It has got to stop. Maybe because they have refused to acknowledge that is their policy is something, but unless they actually change their policy in day-to-day operations, it is not going to make any difference.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman. The implications are dire, not only for the standard of living of Americans, our productive capacity, our future standing in the world as a great power, but just one last item. During the war with Iraq, we used a lot of cruise missiles. There is a critical component of the cruise missile made in Europe, either Sweden or Switzerland make that component, and they refused to sell us any because they did not support the war.

What is going to happen in 10 years when China is looking at invading Taiwan or Mongolia for its resources, and the United States has to go to the Chinese and say can we buy some weapons from you because we think next year we are going to have to defend ourselves from you.

I do not understand the hawks around here who are blithely allowing this hollowing out of our wealth and capacity to happen. I know it is enriching the contributor class in this country, which has a lot of clout at the White House and in Congress; but it is very disturbing to me. There are so many reasons why Members should be appalled by the trade policy. The policy at the White House is to change the names, not the policy.

Mr. Speaker, I thank the gentleman for participating on this, and for all the time he spends on the floor on this and on so many other issues.

#### REVOLVING DOORS

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Mr. Speaker, I do not plan to use the entire hour, but I did want to come to the floor tonight to discuss a troubling issue that seems to be becoming more and more rampant within the Bush administration and within the back rooms of the Congressional Republican Caucus, and that is the revolving door of powerful lobbyists turning in their corporate lobbying cards in order to undermine the programs they are supposed to strengthen within the administration, a revolving

door where Republican congressional staffers leave Capitol Hill, but continue to advertise their relationship with their former Republican boss, relationships they claim can get their clients anything they want with Republican legislation.

Mr. Speaker, before I get into that discussion, I want to talk about another revolving door, this one at the White House and Camp David. Today the Associated Press reports that President Bush opened the White House and Camp David to dozens of overnight guests last year, including at least nine of his biggest campaign fund-raisers. According to the Associated Press, more than 270 people have stayed at the White House since President Bush took office with at least the same number spending the night at Camp David. The President appears to be opening the White House and Camp David to the highest bidders.

Members may remember the controversy surrounding President Clinton and how he allowed guests to spend the night in the Lincoln bedroom. Republicans came to the floor and were aghast at that. At the time, candidate Bush also expressed his outrage over what he said was happening at the White House. In fact, during a debate with Al Gore in 2000, then-candidate Bush stated, "I believe they have moved that sign 'The buck stops here' from the Oval Office desk to 'The buck stops here' on the Lincoln bedroom, and that is not good for the country."

Today, the Associated Press article clearly shows that President Bush has changed his tune. The story lists nine of Bush's biggest fund-raisers either sleeping over at the White House or at Camp David.

First, there is Mercer Reynolds, an Ohio financier, who is leading Bush's campaign fund-raising effort. He stayed at both the White House and Camp David. Then there was Brad Freeman, a venture capitalist who is leading Bush's California fund-raising effort, and he has raised at least \$200,000 for President Bush's re-election campaign. Freeman also stayed overnight at the White House.

Then there is William DeWitt, who also raised at least \$200,000, and who also spent the night at the White House. The list continues. I do not want to take up my whole hour, so I am not going to go over the whole list.

Over the last 3 years, the President's credibility has been tested from creating jobs to the issue of whether or not Iraq had weapons of mass destruction; and now we learn that President Bush, who sharply criticized President Clinton's actions in allowing people to stay overnight in the Lincoln bedroom, is doing exactly the same thing. Nine of his largest contributors have spent the night at the White House or Camp David. As a candidate, Bush criticized these same actions.

Mr. Speaker, the door at both Camp David and the White House continues revolving with President Bush's cam-

paign contributors coming in and out. And as President Bush said, the buck does not stop at his desk. The buck stops with these campaign contributors as the President opens the White House and Camp David to the highest bidder.

Mr. Speaker, since President Bush entered the White House more than 3 years ago, the buck has also been passed to administrators who have acted in the best interests of the corporate interest rather than the best interest of the American people. On Valentine's Day, the gentleman from California (Mr. GEORGE MILLER), who is the co-chair of the Democratic Policy Committee, released a 21-page report that was titled "How the Republicans Have Turn the Government Over to Special Interests." In the report of the gentleman from California (Mr. GEORGE MILLER) he stated, "Pick almost any issue of public concern, water quality, food safety, defense contracts, pension security or health insurance, and you will find that at every level of the Bush administration, powerful roles and key agencies have been turned over to industry advocates who in many cases have long opposed the very programs they are now charged with implementing."

Imagine that, the Bush administration has appointed former industry officials to run national programs that they oppose. Let me give a few examples from the report of the gentleman from California (Mr. GEORGE MILLER).

The first one I would like to mention is when President Bush appointed David Lauriski, the Assistant Secretary for Mine Health and Safety at the Department of Labor. Lauriski's background was 30 years in the coal industry. No wonder last June Lauriski's department issued controversial industry-friendly regulations that would cut down the amount of coal dust testing in mines. In addition to promoting industry-friendly regulations at the expense of miners' health, the report cites a whistle-blower in Lauriski's department who alleged in a complaint that Lauriski awarded no-bid contracts to former business associates and friends and that he pressured investigators to approve an inaccurate report on the devastating coal slurry spill in Kentucky. This is the guy that President Bush appointed to supposedly ensure that miners working in coal mines around our Nation are safe.

Another example from the report of the gentleman from California (Mr. GEORGE MILLER) is when President Bush appointed William Hansen as the Deputy Secretary of Education where he was in charge of, among other things, overseeing the department's direct college loan program which competes with private lenders. You ask where was William Hansen before he joined the Bush administration. Well, Hansen served as CEO of a trade group representing private lenders, and he founded a PAC that gave contributions to Federal candidates who favored private lenders over the department's direct loan program.

Even worse, Hansen testified before Congress against the direct loan program; and yet somehow President Bush determined that he was the perfect person to run the direct loan program. Based on Hansen's past, we should not be surprised that on his watch the Education Department cut off marketing for the direct loan program and stopped competing for new schools to offer the direct loans. The Bush administration even proposed selling the direct loan portfolio to private lenders.

After weakening the direct loan program, Hansen left the Bush administration last July to become the managing director of education services for the Affiliated Computer Services, an information technology business that specializes in outsourcing solutions to commercial and government clients. Four months later, that company was awarded a \$2 billion contract from the Department of Education.

Mr. Speaker, these are just two examples, not even a half page, in this 21-page report that the gentleman from California (Mr. GEORGE MILLER) put together. There are many other examples that probably will be brought to the floor or discussed further on other nights.

Within the Bush administration, it is clear that a revolving door has been created in which corporate leaders come in and work for the administration for a period of time, weakening popular laws that benefit the American people.

Unfortunately, this revolving door does not only exist within the Bush administration. It also exists here within the Republican majority in the House of Representatives, and it should stop. The revolving door within the Republican majority is becoming so widespread if you picked up the newspapers the last week or so, you would think that was the only thing going on up here on Capitol Hill.

There was a front page story in last Thursday's Roll Call, which is the Capitol Hill newspaper, one of the Capitol Hill newspapers. The first headline in last Thursday's Roll Call read, "Revolving Door Snags Hill Aide." There is a subheading, "Taylor Staffer Negotiated Lobby Contract While on House Payroll."

Roll Call reports that Robert France, the former top aide to the gentleman from North Carolina (Mr. TAYLOR), negotiated a \$60,000 lobbying deal on House time. The negotiations came 2 months after the aide was able to secure a \$750,000 appropriations projected earmarked to his boss.

This revolving door, my question is, Where does it end? Ken Gross, an ethics and campaign finance lawyer told Roll Call, "People are certainly able to seek jobs, cashing in on their background and experience on the Hill." Gross continued to say, "If there is evidence of this person working as a staffer on legislation that would especially benefit this company while he is talking to them about going to work for them,

that would be troubling." Yet that is what seems to go on.

Going back to the front page of last Thursday's Roll Call, there is another headline that says, "McCain Seeks Files in Abramoff Probe." This article surrounds actions first discovered by The Washington Post several weeks ago in which the paper discovered Jack Abramoff, a White House lobbyist, and Michael Scanlon, a former aide to the gentleman from Texas (Mr. DELAY), persuading several Indian tribes to pay their firms more than \$45 million over the past 3 years. Senator MCCAIN is now investigating these payments.

The Scanlon-Abramoff investigation is a perfect example of how Scanlon used his relationship with his former boss, the gentleman from Texas (Mr. DELAY), the majority leader, to influence legislation. When Republican Leader DELAY was asked about how both men promote their ties to him, he stated, "I have no idea how their operation is or what it is." DELAY continued, "What I can tell you is that if anybody is trading on my name to get clients or to make money, that is wrong and they should stop it immediately."

Mr. Speaker, that is an interesting statement. I wish it were true. However, we have to consider that the gentleman from Texas (Mr. DELAY) has played an instrumental role in the K Street Project, a database that tracks the party affiliation, Hill experience, and political giving of every single lobbyist here in Washington. The K Street Project was featured in a July 2003 edition of the Washington Monthly, and the article stated back in 1995 that the gentleman from Texas (Mr. DELAY) compiled a list of the 400 political action committees, along with the amounts and percentages of money that had recently been given to each party. Lobbyists were then invited into the office of the gentleman from Texas (Mr. DELAY) and shown their place in friendly or unfriendly columns.

□ 2030

A veteran steel lobbyist told Washington Monthly that the House Republican leadership "assembled several large company CEOs and made it clear to them that they were expected to purge their Washington offices of Democrats and replace them with Republicans." The House Republican leaders also demanded more campaign money and help for the upcoming election. According to the article, the meeting descended into a shouting match and the CEOs, most of them Republicans, stormed out of the meeting.

The gentleman from Texas (Mr. DELAY) essentially is telling lobbying firms around Washington whom they can and cannot hire. He also has worked hard to place former aides in key lobbying and trade positions. The practice is so well known that these former aides are known as "graduates of the DeLay school." And yet, with a straight face, the majority leader tells

reporters, "If anybody is trading on my name to get clients or make money, that is wrong and they should stop immediately." Well, it does not seem to be very believable.

Tonight, as I said, I have been talking about a revolving door, a door that swings for the Republican corporate interests but shuts in front of everyday Americans. Whether it be the President opening rooms in the White House and Camp David to the highest bidder, or the administration hiring many of its key officials to advocate on behalf of policies they have opposed in the past, or the questionable actions of former Republican staffers who are functioning in a climate created by the majority leader, it is just unacceptable.

I know that the media has been paying a lot of attention to this, and I think it is important that we bring it out. I do not want people to think that this is always the case, but it certainly is a strong indication that the President and the Republican leadership in the Congress have been essentially involved with this revolving door for some time, and let us just hope it does not get any worse.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. BERKLEY (at the request of Ms. PELOSI) for today from 3:00 p.m. and the balance of the week on account of a funeral in the district.

Mr. CARDOZA (at the request of Ms. PELOSI) for today after 4:15 p.m. and the balance of the week on account of medical reasons.

Ms. HARMAN (at the request of Ms. PELOSI) for today after 5:00 p.m. on account of official business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today before noon on account of personal business.

Mr. REYES (at the request of Ms. PELOSI) for March 9 and today before 2:00 p.m. on account of personal reasons.

Mr. WICKER (at the request of Mr. DELAY) for today and the balance of the week on account of the death of his mother.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. UDALL of New Mexico, for 5 minutes, today.

Mr. BOYD, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. MATHESON, for 5 minutes, today.  
 Mr. EMANUEL, for 5 minutes, today.  
 Mr. POMEROY, for 5 minutes, today.  
 Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Mr. PEARCE) to revise and extend their remarks and include extraneous material:)

Ms. HARRIS, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Ms. GRANGER, for 5 minutes, March 16.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

#### ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 32 minutes p.m.), the House adjourned until tomorrow, Thursday, March 11, 2004, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7126. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-400 and -400F Series Airplanes [Docket No. 2003-NM-140-AD; Amendment 39-13373; AD 2003-24-04] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7127. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes Modified in Accordance With Supplemental Type Certification SA1444SO, SA1509SO, SA1543SO, or SA1896SO [Docket No. 97-NM-235-AD; Amendment 39-12861; AD 2002-16-22] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7128. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202 -301, -311, and -315 Airplanes [Docket No. 2002-NM-11-AD; Amendment 39-13459; AD 2004-03-15] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7129. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Certification of Airports [Docket No. FAA-2000-7479; Amendment No. 121-304, 135-94] (RIN: 2120-AG96) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7130. A letter from the Paralegal Specialist, FAA, Department of Transportation,

transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2001-NM-156-AD; Amendment 39-13478; AD 2004-03-34] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7131. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Manokotak, AK [Docket No. FAA-2003-16083; Airspace Docket No. 03-AA1-19] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7132. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Greenfield, IA. [Docket No. FAA-2003-16504; Airspace Docket No. 03-ACE-88] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7133. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes Modified in Accordance With Supplemental Type Certificate SA1368SO, SA1797SO, or SA1798SO [Docket No. 97-NM-233-AD; Amendment 39-12859; AD 2002-16-20] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7134. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Common Mistakes on Tax Returns [Notice 2004-13] received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7135. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Frustrated Arguments to Avoid [Notice 2004-22] received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7136. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Citizens or Residents of the United States Living Abroad (Rev. Rul. 2004-28) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7137. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004-27) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7138. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004-29) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7139. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Income from Sources within the United States (Rev. Rul. 2004-30) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7140. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004-34) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 554. Resolution providing for consideration of the bill (H.R. 3717) to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language (Rept. 108-436). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KIRK (for himself, Mr. BASS, Mr. CASTLE, Mr. EHLERS, Mr. FEENEY, Mr. FRANKS of Arizona, Mr. GIBBONS, Mr. GILLMOR, Mr. HOUGHTON, Mrs. KELLY, Mrs. MYRICK, Mr. PLATTS, Mr. RYAN of Wisconsin, Mr. SHAYS, Mr. UPTON, Mrs. BIGGERT, and Mrs. JOHNSON of Connecticut):

H.R. 3925. A bill to amend the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to reform Federal budget procedures, provide for budget discipline, accurately account for Government spending, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Rules, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS (for himself, Mr. BROWN of Ohio, Mr. BARTON of Texas, Mr. DINGELL, Mr. UPTON, Mr. WAXMAN, Mr. BURR, and Mr. PALLONE):

H.R. 3926. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EMANUEL (for himself, Mr. FRANK of Massachusetts, Mr. WEINER, Mr. DEUTSCH, Mr. WAXMAN, Mr. LANTOS, Mr. ENGEL, Mr. ACKERMAN, Mr. ISRAEL, Mr. BERMAN, Mrs. MCCARTHY of New York, Mr. MICHAUD, Mr. NADLER, Ms. SCHAKOWSKY, Mr. CARDIN, Mrs. LOWEY, and Mr. WEXLER):

H.R. 3927. A bill to prohibit discrimination in the provision of life insurance on the basis of a person's previous lawful travel experiences; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FALEOMAVAEGA:

H.R. 3928. A bill to amend title 10, United States Code, to allow nationals of the United States to attend military service academies and receive Reserve Officers' Training Corps (ROTC) scholarships on the condition that the individual naturalize before graduation; to the Committee on Armed Services.

By Mr. GILLMOR (for himself and Mr. POMEROY):

H.R. 3929. A bill to establish a national sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Ms. HOOLEY of Oregon:

H.R. 3930. A bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children; to the Committee on Education and the Workforce.

By Mr. KING of New York:

H.R. 3931. A bill to provide for certain tunnel life safety and rehabilitation projects for Amtrak; to the Committee on Transportation and Infrastructure.

By Mr. NUNES:

H.R. 3932. A bill to amend Public Law 99-338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project; to the Committee on Resources.

By Mr. RAMSTAD (for himself and Mr. CRANE):

H.R. 3933. A bill to repeal section 754 of the Tariff Act of 1930; to the Committee on Ways and Means.

By Mr. WEINER (for himself, Mr. FERGUSON, Mr. WEXLER, Ms. BERKLEY, Ms. JACKSON-LEE of Texas, Mr. NADLER, Mr. DEUTSCH, and Mr. ISRAEL):

H.R. 3934. A bill to halt the issuance of visas to citizens of Saudi Arabia until the President certifies that the Kingdom of Saudi Arabia does not discriminate in the issuance of visas on the basis of religious affiliation or heritage; to the Committee on the Judiciary.

By Mr. WU:

H.R. 3935. A bill to amend title XVIII of the Social Security Act to provide geographic equity in fee-for-service reimbursement for providers under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER (for himself and Mr. CUNNINGHAM):

H. Con. Res. 380. Concurrent resolution recognizing the benefits and importance of school-based music education; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas (for himself, Mr. ENGEL, and Mr. WALSH):

H. Con. Res. 381. Concurrent resolution supporting the goals and ideals of Tinnitus Awareness Week; to the Committee on Energy and Commerce.

By Mr. LEACH:

H. Res. 553. A resolution electing Members to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. MEEKS of New York:

H. Res. 555. A resolution expressing the heartfelt sympathy of the House of Representatives for the victims of the earthquake on February 24, 2004, near Al Hoceima, Morocco, and for other purposes; to the Committee on International Relations.

By Mr. MORAN of Virginia (for himself, Mrs. CUBIN, Mr. TOM DAVIS of Virginia, Mr. DICKS, Ms. ESHOO, Mr. KIND, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LOFGREN, Mr. REGULA, Mr. SMITH of Michigan, Mr. YOUNG of Florida, and Mr. BOEHLERT):

H. Res. 556. A resolution congratulating the United States Geological Survey on its 125th Anniversary; to the Committee on Resources.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. TOOMEY.

H.R. 31: Mr. SANDLIN.

H.R. 58: Mr. STENHOLM.

H.R. 97: Mr. GRIJALVA, Mr. NEY, Mr. WILSON of South Carolina, Mr. DAVIS of Tennessee, and Mr. BACA.

H.R. 236: Mr. MICHAUD.

H.R. 369: Ms. LINDA T. SANCHEZ of California.

H.R. 463: Mr. SNYDER and Mr. RANGEL.

H.R. 676: Mr. ABERCROMBIE.

H.R. 677: Mr. MCGOVERN and Mr. WOLF.

H.R. 687: Mr. MURPHY.

H.R. 732: Mr. KLINE, Mr. WILSON of South Carolina, Mr. GORDON, Mr. KILDEE, Mr. ISRAEL, Mr. STUPAK, Mrs. MCCARTHY of New York, and Mr. KENNEDY of Minnesota.

H.R. 792: Mr. ROHRBACHER, Mr. TURNER of Ohio, and Mr. FILNER.

H.R. 857: Mr. SCOTT of Georgia.

H.R. 871: Mr. DEMINT.

H.R. 1078: Mr. DOYLE.

H.R. 1097: Mr. BERMAN and Mrs. MCCARTHY of New York.

H.R. 1105: Ms. MAJETTE.

H.R. 1214: Mr. DAVIS of Illinois, Mr. GEORGE MILLER of California, Mr. WU, Mr. HYDE, Mr. SIMMONS, and Mrs. CAPITO.

H.R. 1228: Mrs. CHRISTENSEN and Mr. STARK.

H.R. 1231: Mr. VITTER.

H.R. 1241: Mr. SHERMAN.

H.R. 1258: Mr. ISRAEL and Mr. FILNER.

H.R. 1534: Mr. BACA.

H.R. 1567: Mr. GINGREY.

H.R. 1608: Mr. GOSS and Mr. MCGOVERN.

H.R. 1613: Mrs. CHRISTENSEN, Mr. MCINTYRE and Ms. MCCOLLUM.

H.R. 1684: Ms. CORRINE BROWN of Florida, Mr. WEINER, and Mr. CUMMINGS.

H.R. 1749: Mr. LEACH.

H.R. 1767: Mr. HOEKSTRA.

H.R. 1769: Mr. MEEHAN and Mr. DAVIS of Florida.

H.R. 1861: Mr. PAYNE.

H.R. 1930: Mr. TIERNEY and Mr. GUTIERREZ.

H.R. 2037: Mr. MORAN of Kansas.

H.R. 2068: Mr. NADLER, Mr. LEACH, Ms. WATERS, and Mr. FILNER.

H.R. 2069: Mr. LEACH.

H.R. 2239: Mr. LEVIN.

H.R. 2339: Mr. FERGUSON.

H.R. 2402: Mr. FROST.

H.R. 2475: Ms. HARRIS.

H.R. 2482: Mr. BAIRD.

H.R. 2490: Ms. ROYBAL-ALLARD.

H.R. 2824: Ms. NORTON, Mrs. CAPPS, and Mr. BURGESS.

H.R. 2987: Mr. NADLER, Mr. ABERCROMBIE, and Mr. HINCHEY.

H.R. 2905: Mr. JENKINS, Ms. NORTON, Mr. SMITH of Washington, Mr. MORAN of Kansas, and Mr. HOSTETTLER.

H.R. 2926: Ms. SCHAKOWSKY.

H.R. 2932: Mr. FARR.

H.R. 2949: Mr. BAIRD.

H.R. 2971: Mr. OBEY.

H.R. 3103: Mr. WAMP.

H.R. 3125: Mr. JENKINS and Mr. STENHOLM.

H.R. 3142: Mr. NEAL of Massachusetts, Ms. SCHAKOWSKY, Mr. DOGGETT, and Mr. ISSA.

H.R. 3246: Mr. CANTOR.

H.R. 3257: Mr. RAHALL.

H.R. 3277: Ms. LEE.

H.R. 3295: Mrs. JOHNSON of Connecticut.

H.R. 3337: Mr. KIND.

H.R. 3377: Ms. NORTON, Ms. ROYBAL-ALLARD, and Mrs. CHRISTENSEN.

H.R. 3386: Mr. DAVIS of Illinois.

H.R. 3403: Mr. DEAL of Georgia and Mr. BURR.

H.R. 3416: Ms. ROYBAL-ALLARD.

H.R. 3441: Mr. BALLANCE, Mr. BOEHNER, Ms. WOOLSEY, Ms. CARSON of Indiana, Mr. BURR, Mr. TAYLOR of Mississippi, Mr. LUCAS of Kentucky, Mr. MCINTYRE, Mr. SNYDER, and Ms. LEE.

H.R. 3444: Mr. MCGOVERN.

H.R. 3474: Mr. SCHIFF, Mr. STENHOLM, Mr. HINOJOSA, and Mr. BOUCHER.

H.R. 3480: Mr. WOLF.

H.R. 3482: Mr. GREEN of Wisconsin.

H.R. 3507: Mr. MCNULTY.

H.R. 3528: Ms. LEE.

H.R. 3572: Mr. LEWIS of Georgia.

H.R. 3574: Mr. MATHESON, Ms. LORETTA SANCHEZ of California, Mr. GARY G. MILLER of California, and Mr. MORAN of Virginia.

H.R. 3599: Ms. MCCOLLUM.

H.R. 3643: Mr. FROST and Mr. WOLF.

H.R. 3664: Mrs. JO ANN DAVIS of Virginia.

H.R. 3668: Mr. STENHOLM.

H.R. 3673: Mr. CARDOZA and Mr. ANDREWS.

H.R. 3684: Ms. SCHAKOWSKY and Mr. SABO.

H.R. 3716: Mr. TURNER of Texas, Mr. BALLENGER, and Mr. BERRY.

H.R. 3719: Ms. CARSON of Indiana, Mr. RANGEL, Mr. CLAY, Mr. HOLT, Ms. LINDA T. SANCHEZ of California, and Mr. HOEFFEL.

H.R. 3745: Mr. SOUDER.

H.R. 3755: Mr. EMANUEL, Mr. MCCOTTER, and Mr. DELAHUNT.

H.R. 3763: Mr. ADERHOLT and Mr. VIS-CLOSKY.

H.R. 3764: Mr. KIND, Mr. DAVIS of Illinois, Mr. KUCINICH, Ms. WATSON, Mr. LANTOS, and Mrs. CAPITO.

H.R. 3773: Mr. RAMSTAD, Mr. AKIN, Mr. FOSSELLA, Mrs. MUSGRAVE, Mr. SESSIONS, Mr. CANTOR, Mr. FLAKE, and Mr. VITTER.

H.R. 3781: Mr. NUNES.

H.R. 3793: Mr. KING of New York.

H.R. 3799: Mr. MILLER of Florida, Mr. WAMP, and Mrs. JO ANN DAVIS of Virginia.

H.R. 3800: Mr. ISAKSON, Mr. UPTON, Mr. BROWN of South Carolina, Mr. SMITH of Texas, and Mr. BRADY of Texas.

H.R. 3846: Mr. WALDEN of Oregon.

H.R. 3881: Mr. JEFFERSON, Mr. SABO, Mr. MOORE, and Mr. OLVER.

H.R. 3901: Mr. AKIN, Mr. CHOCOLA, Mr. UPTON, and Mr. HASTINGS of Washington.

H.R. 3913: Mr. UPTON.

H.R. 3917: Mr. ACKERMAN, Mr. BISHOP of New York, Mr. BOEHLERT, Mr. CROWLEY, Mr. ENGEL, Mr. FOSSELLA, Mr. HINCHEY, Mr. HOUGHTON, Mrs. KELLY, Mr. KING of New York, Mrs. LOWEY, Mrs. MALONEY, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MCNULTY, Mr. MEEKS of New York, Mr. NADLER, Mr. OWENS, Mr. QUINN, Mr. RANGEL, Mr. REYNOLDS, Mr. SERRANO, Ms. SLAUGHTER, Mr. SWEENEY, Mr. TOWNS, Ms. VELÁZQUEZ, Mr. WALSH, and Mr. WEINER.

H.R. 3919: Ms. JACKSON-LEE of Texas, Mr. VAN HOLLEN, Mr. FRANK of Massachusetts, Mr. SANDERS, and Mr. DAVIS of Illinois.

H.R. 3921: Ms. BERKLEY.

H. Con. Res. 70: Mr. RUSH.

H. Con. Res. 98: Mr. NUNES.

H. Con. Res. 247: Mrs. MALONEY.

H. Con. Res. 285: Mr. CASE.

H. Con. Res. 314: Mr. LEWIS of Georgia.

H. Con. Res. 332: Mrs. EMERSON, Mr. CHOCOLA, and Mr. FOSSELLA.

H. Con. Res. 338: Mr. LANGEVIN.

H. Con. Res. 352: Mr. VAN HOLLEN and Mr. TIERNEY.

H. Con. Res. 356: Mr. STUPAK and Mr. EVANS.

H. Con. Res. 365: Mr. WILSON of South Carolina.

H. Con. Res. 366: Mr. ACKERMAN, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. DEFazio, Mr. MCHUGH, Mr. VISCLOSKY, Mr. OBEY, Mr. BECERRA, and Mr. CONYERS.

H. Con. Res. 367: Mr. FLAKE.

H. Con. Res. 371: Mr. GREEN of Texas.

H. Res. 402: Mr. BURR.

H. Res. 446: Mr. GOODLATTE.

H. Res. 524: Mr. INSLEE and Mr. RANGEL.

H. Res. 540: Mr. SMITH of New Jersey.

H. Res. 542: Mr. MARKEY and Mr. GUTIERREZ.